



*The true Effigies of the Author, taken from an
Original Painting of M^r. Joseph Brooks, of S^t. Ed-
munds Bury in the County of Suffolke, Painter.
with his Single Coat of Arms truly Emblazon'd*



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A N
 Historical and Critical
E S S A Y
 O N T H E
TRUE RISE
 O F
NOBILITY,
Political and Civil;

F R O M
 The First Ages of the World, thro' the
Jewish, Grecian, Roman Commonwealths, &c.
 down to this present Time.

To which is annex'd;
 The Order of Precedency; with other Curious
 Things: Chiefly extracted from a Valuable Ma-
 nuscript, writ by an Herald.

With a Compleat INDEX to the whole.

The SECOND EDITION, with large Additions.

Conamur Tenuēs Grandia. (Hor.)

The Second VOLUME.

L O N D O N :

Printed for the AUTHOR. MDCCXX.



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CHAP. VI.

Customs of Nations.

I Have already said that Political Nobility, still subject to the Dispositions of Princes, and Changes of Time, depended always upon the Customs of Nations.

For first of all, it is manifest, that Dignities, which were but the bare Names of Personal Offices, at length became Hereditary and Successory, and yet with divers Laws Circumscribed.

And altho' Women in *Germany*, Born of Dukes, Earls, or Barons, are, according to the Custom of the Empire, styl'd and call'd Dutchesse, Countesses, and Baronesse; yet by the Law of the Imperial Grant, the Principalities themselves, with the Fees thereto belonging, descend to the Males only, who failing, they revert to the Emperor; which thing, the great Dukedom of *Carinthia* proveth to be so, for *Ericus* (or *Henry*) the last Duke being Dead without Heirs Male, the Dukedom, by the Laws, return'd again to the Empire, which

Lewis the Emperor afterwards bestow'd upon
Albert (1), Duke of *Austria*.

Sigismund

(1) *Albert*.] For the Etymology hereof *Verflegan* refers us to *Ethelbert*, which I have thought good to set down here for the Satisfaction of my curious Reader; (for nice Palates require the Art of Cookery.) *Ethelbert* was the Name of the first Christned *English* King, that ever was Entitul'd King of *Kent*, albeit his Dominion stretch'd farther. It signifyeth nobly Conceiv'd or Advis'd, or of noble Conceit or Advise; whence this Termination *bert* is Abbreviated, I have already shew'd. *Ethel* is also sometimes Abbreviated to *Eal*, whereby *Ethelbert* doth come to *Ealbert*; and also modernly *Albert*. (*Verflegan*.)

(1) *Charles*

Sigismund the Emperor also (the right Line of the Dukes of *Saxony* being extinct) gave the Dukedom, in the Year 1423 to the Marquesses of *Misnia*; and the Marquisate of *Brandenburgh* to the *Burghgraves* of *Nuremburg* or *Noremburg*, whose Successors even now at this Day enjoy the same.

The same we read to have been done in *Italy*: For *Wenceslaus* the Emperor, in the Year 1490, grac'd the Vice-County of *Milan* with the Title of a Dukedom; but so as that for want of Heirs Male it should, together with that Dignity, be made a Part of the Imperial Patrimony.
And

And in the remembrance of our Grand-fathers we read, that the Emperor (1) *Charles 5*, Created some (as well at *Naples* (2) as elsewhere) but yet always with that common Law of Reversion, that as soon as the last of the Male descent should Die, they should be made Imperial Dignities. But here (by the way) we must remember, that the Emperors did not always do all things according to the utmost extent of their Power; but sometimes by a new beneficiary or bountiful Covenant, being requested so to do, suffer'd those Titles of Honours to descend to the Daughters (no Heir Male remaining) mitigating the Extremity of the Law (by wise Men first Interpreted) Regard being still had either to the Common-Wealth, or to some former Agreement, or to the time present.

In

(1) *Charles* the 5th, Emperor, and King of *Spain*, Eldest Son of *Philip* the 1st Arch-duke of *Austria*, and of *Joan* Queen of *Castile*, was Born at *Ghent*, the 24th of *Feb.* 1500, and succeeded his Father in his Kingdom of *Spain* in 1517, and was chosen Emperor two Years after by the Electors at *Frankfort*, after the Death of his Grandfather *Maximilian*. He receiv'd the Imperial Crown first at *Aix la Chapelle*, and was afterwards Crown'd by Pope *Clement* the 7th in 1530, on the 24th of *Feb.* being the Feast of *St. Matthias*, and a Day that was observ'd to have been very favourable to him; for it was upon this

Day in 1525, that his Army took *Francis* the 1st Prisoner, at the Battle of *Pavia*, with whom he was in continual War for 4 or 5 Years before; this Prince purchas'd his Liberty 13 Months after, upon some hard Conditions which the States of the Kingdom disapprov'd. This Emperor's Army took *Rome* in 1527, and plunder'd it two Months, without respect to the Pope, or any thing else; during which time 'twas observ'd, that the *Spaniards*, tho' *Roman Catholicks*, out-did the *Germans*, who were profess'd *Lutherans*. The Emperor pretended to be dissatisfied at their Proceedings; but it is well known, that he countenanc'd their Violences.

In the mean time the Pope ransoms himself, and makes an Agreement with *Charles* in 1529, who also concluded a Peace with *Francis* the 1st, at *Cambray*, the 5th of *August* in the same Year. The *October* following he forc'd *Solyman* to raise the Siege of *Vienna*, and carried an Army of above 50000 Men into *Africa*, where he took the Fort of *Goulete*; re-establish'd *Mulei Hassen* in *Tunis*, in 1535, and then came back into *Italy*, whence he entred with a powerful Army into *Provence*, against the *French*, where he lost 30000 Men: But this Army was stop'd, and he himself like to be kill'd by some *Boors*, that had possessed themselves of the Castle of *Muy*, in the Diocess of *Frejus*; so that after he had Besieg'd *Marseilles* to little Purpose, he was forc'd to take his way back by the *Alps*; but the Peace of *Nice* in 1538, put an end to these Troubles, and he passed thro' *France* to Chastize the Inhabitants of *Ghent*, that had revolted, and sent Ambassadors to *Francis* the 1st, to intreat him to take them under the Protection of the Crown of *France*, whereof they said they were antient Subjects, which the King refus'd by reason of his Peace and Friendship with the Emperor, who hearing of this sent to pray the King that he might pass thro' his Kingdom; promising the *French* Ambassadour then in *Spain*, that he would give them *Milan* back again, but desir'd, that lest it might seem that he was forc'd to this, it should not be spoke of, whilst he was in the Territories of *France*. Thus he gull'd the *French*, who receiv'd him most Magnificently, and shew'd him all the Civility imaginable: for the King's Children accompanied him throughout all the Kingdom, and the King himself, forgetting all

all their former Disputes, and his own hard Usage, whilst he was a Prisoner, came along with him to *Paris*, where he treated him with all manner of Kindness, without troubling him with the least Demand; yet *Charles* of his own Accord, confirm'd his Promise of *Milan*, and the Lord High Constable *de Montmorency* pass'd his Word to the King for the Performance. But notwithstanding all this, when the Emperor was afterwards desir'd by the Bishop of *Lavaur* at *Valenciennes* to fulfil it, he refus'd to do it, which occasion'd new Wars, and *Montmorency's* Disgrace. In 1541 he went into *Africa*, against *Barbarossa*; but this Undertaking proving unfortunate, he return'd to *Spain* with great Loss. *Roman Catholics* accuse him of countenancing *Lutheranism* in *Germany*, by his Edict, call'd the Interim, which tho' it order'd that they should follow a certain Form of Doctrine, it priviledg'd Priests to Marry, and allow'd *Laicks* the use of the Chalice, until it were otherwise decreed by a Council; and all, that he might reap Benefit by these Divisions. It's true, he persecuted the *Protestant* Princes of *Germany*, but it was more thro' Interest, and a design to establish a Monarchy, than for any principle of Religion; for he gave *Luther* Leisure enough to establish the Reformation, and draw the Princes and People of his Side, that were since call'd *Protestants*, for protesting in 1529, against the Ordinance of the Diet of *Spire*, which oblig'd every one to Conform to the antient Doctrine; so that this Party being strengthen'd by the Offensive and Defensive League of *Smalcalde* in 1530; could neither be suppress'd by Proscriptions, nor by his great Victory over their powerful Army at *Mulberg* the same Year; nor by the Confinement of the chief of them, *John Frederick* of *Saxony*, and *Philip Landgrave* of *Hesse*. And when the *Germans* in 1551 and 52, took Arms under the Protection of *France*, he was forc'd to come to a Peace, and by the Treaty of *Passaw*, to allow a Liberty of Conscience, call'd *Evangelical*, and leave them the Church-Lands, that they had Usurp'd, enlarg'd their Prisoners, and gave them the Privilege to be receiv'd into the number of the Judges in the Imperial Chamber. His fruitless Undertaking upon *Mentz*, when he Besieg'd it in 1552 with an Army of 100000 Men, shew'd that there was a limit to the *Plus*

Ultra, which was his Motto. And these Disappointments made him think it was time to withdraw from the World; which he did, resigning all his Possessions to his Son *Philip*, on the 25 of *October*, 1555, at *Brussels*; whence he himself went into *Spain*, to spend the Relidue of his Life in the Convent of *St. Justus*, of the Order of the *Jeronymites*, in the Province of *Estremadura*, 8 Miles from *Valencia*: Here he Died 3 Years after, about the 21st of *September*, 1558, being 58 Years old, and upwards, whereof he held the Empire 38 Years, 2 Months, and 24 Days. He was a Prince of great Parts and Courage, but somewhat Cunning, and a Dissembler, that Sacrific'd all to his Ambition. He made 50 different Voyages and Journeys; Nine into *Germany*, ten into *Flanders*, six into *Spain*, seven into *Italy*, four into *France*, two into *England*, two into *Africa*, eight upon the *Mediterranean*, and two upon the *Ocean*. He left 3 Children by *Isabella* of *Portugal* his Wife; viz. *Philip* the 2d of *Spain*; *Mary*, Wife to the Emperor *Maximilian* the 2d; and *Jane*, that was Married to *John*, Prince of *Portugal*. And before his Marriage he had, first, *Margaret* by one of his Concubines, Married to *Alexander de Medicis*, and afterwards to *Octavian Farnese*; and after the Empress's Death, he had *John* of *Austria*, by a young Woman of *Ratisbonn*, whose Name could never be known, (*Bayle, Collier, &c.*)

(2) *Naples*] *Neapol'is*. Lat. *Νεάπολις, νέα πόλις*. *Græce, Nova Civitas*; call'd by the *Italians Napoli*, and also *Gentile*, and by the *Spaniards Napoles*, which *Cicero, Pliny* and *Strabo* place in *Campania Felix*, was antiently call'd *Parthenope*, from the Sea-Nymph, or Syren of that Name, whose Inchantments (as the Story goes) *Ulysses* and his Companions had enough to do to escape: Or from *Eumelus* the King of *Thessaly's* Daughter, who is said to have brought hither a Colony; some think the *Grecians* built it, and call'd it *Neapolis*: Others affirm that *Augustus* gave it that Name; but be that as it will, it is certainly one of the noblest and finest Cities in the World, distant about an 100 Miles from *Rome* to the South-East: 200 from *Palermo* to the North-East; 200 from *Florence* to the South-East, and about 300 from *Venice*,
nice,

nice. Lat. 48. 56. Long. 36. 15. It is seated on a Gulph of the same Name with the City, and has a large and safe Harbour to the Mediterranean Sea: It is a large and well peopled City, and is reckon'd 9 Miles in Compass round the Walls, and 18, if you include the Suburbs. It is divided into 29 Parts, call'd *Ottine*, and is pav'd throughout with large square Stones, chequer-wise. The Streets are freight and most of them broad. The Houses are high and uniform, and have flat Roofs, and are generally very beautiful. The Sea washes it on the *South-side*, on the *North* there are little Hills that rise insensibly into *Campania Felix*; on the *East* a Plain which leads to Mount *Vesuvius*, and on the *West* the upper Town. There are in this City many very fine Palaces, *viz.* That of the Vice-Roy, those of the Dukes of *Matalone*, *Gravina*, *Airola*, and *de la Tour*, &c. The three Castles which defend the City; the Academy, which they call *Studij Nouovi*; the Academy for riding the great Horse; the Convents; Arsenal and Magazines for the Gallies, are all very fine Buildings. There are also many Fountains which are very convenient, and serve to adorn the City: But above all the Number and Magnificence of Churches surpasses Imagination: Their Frontis-Pieces and Gates, the Chappels, Altars and Tombs, seem to be Pieces of the finest Architecture in the World. One that would see the rarest Pictures, Sculptures, and Vessels of Gold and Silver, must go to the Churches. The Roofs, Wainscotes, Walls are all cover'd with Pieces of precious Marble, most artificially laid together, or with Compartments of Bass Relievo, or Joyners-Work, gilded and enrich'd with the Work of the most famous Painters. There is nothing to be seen but *Jasper*, *Porphyre*, *Mosaick* of all Fashions, all Master-Pieces. In a Cloyster belonging to the *Carthusians*, is to be seen the famous Crucifix of *Michael Angelo*, drawn, as they say, after the Life, from a certain Peasant, whom that Painter crucified for the Purpose. The Picture is upon Wood, and is not above half a Foot high; Mr. *Misson* finds Fault with *Michael*; for he says the Crucifix holds his Head exactly freight, which is not like a Man expiring on the Cross. Altho' the greater Part of the Antiquities of this Place be buried in the Ruins, yet there are several to be seen still. The Front of *St. Paul* major;

one

one of the Theatine Churches, is the old Frontis-Piece of the Temple of *Apollo*. The Columns of *Sancta Restituta* are said to be taken from the Temple of *Neptune*; there are also some Remains of an Amphi-Theatre, and a Statue of the *Nile*, supported by a *Crocodile*. Also the Head and Neck of a large Brazen-Horse, without a Bridle; which formerly stood in one of the Publick Places of *Naples*, as an Emblem of it's Liberty, when it was a Commonwealth; but King *Conrad* caus'd a Bit to be put in the Mouth, to signifie they had now lost it. In this City, as in most Places of *Italy*, the Women are all hid; the Habits and Equipages of this City are of black, and dark Colours. They are forbidden to wear Gold or Silver; or Silk upon Silk, and the *Spanish* Dress is generally us'd. The greatest Lord can keep but two *Staffieri* or Footmen; and their Coaches are for the most part drawn by Mules. The Trade of this City is much decay'd, and consists at present of Soap, Snuff, Stockings, Wastecoats of fine *Naples* Silk, &c. It is the Metropolis of the Kingdom of *Naples*, seated in the Territory of *Lavaro* (comprehending a Part of the antient *Campania Felix*, so call'd by *Pliny* for its Fruitfulness, and *Latium Novum*) an Arch-Bishoprick, and University (*Moll's Geography*.) I could not pass by a City, which Historians and Travellers reckon one of the finest in the World, without taking Notice of it; so hope the Reader will not frown upon this short Description and Character of *Naples*.

(1) A

In *France* *Rennatus Choppinus* (1) disputing of the Royal *Demefne* (2) maketh a Distinction of Dignities; for he affirmeth all Military and Masculine Dignities by the *Salique* (3) Law to be annexed to the Fees Royal, nor by any means by meer Law to come to the Women, altho' the Heirs Male fail; except by special and exprefs Words it be before provided; which

which (he saith) he himself hath seen and read; yet in the mean time he affirms private Principalities not to be deny'd to Women; which he manifests by the Example of the County of *Arminiach*, by a Woman's Right devolv'd to the King of *Navarre*, and by many others also.

And

(1) A *Frenchman* born in 1537, at *Baleul* in *Anjou*, and one of the most eminent Lawyers of that Age. He was a good Pleader, and look'd upon as a Sort of Oracle in his Profession. His Works are, *viz. Politia Sacra. Monastica*; besides other Tracts collected in Six Vol. in Folio, in *Latin*; and Five in *French*. He died at *Paris* in 1606.

(2) *Demefne*.] *Demain* or *Demefne*; *Dominicum*, is a *French* Word otherwise written *Domain*, and signifyeth *Patrimonium Domini*, as *Hottoman* saith in *verbis Feudalibus*, *verbo Dominicum*, where, by divers Authorities he proveth those Lands to be *Dominicum*, which a Man holdeth Originally of himself; and those be *Foedum*, which he holdeth of a superior Lord. And by the Word *Dominium*, as *Demanium*, are properly signified the King's Lands in *France*, appertaining to him in Property. In like manner do we use it in *England*, tho' we have no Land (that of the Crown only excepted) which holdeth not of a Superior; for all dependeth mediately or immediately of the Crown; wherefore no common Person hath any *Demaynes* simply understood: For when a Man in Pleading would signify his Lands to be his own, he saith, that he is or was seiz'd thereof in his *Demayne*, as of Fee. (*Lit. Lib. 1. Cap. 1.*) whereby he meaneth, That altho' his Land be to him and his Heirs for ever, yet it is not true *Demayne*, but depending upon a superior Lord, and holding by Service, or Rent in lieu of Service; and by both Service and Rent; yet these Words have been us'd in the King's Right,

Right. (37 Hen. 8. *Cap.* 16, and 39. Eliz. 22.) But the Application of this Speech to the King and Crown Land is crept by Error and Ignorance of the Word Fee. *Britton. Cap.* 78. sheweth, That this Word Demayne is diversely taken, sometimes more largely, as of Lands and Tenements held for Life, &c. and sometimes more strictly, as for such only as are generally held in Fee. This Word sometimes is us'd for a Distinction between those Lands, that the Lord of the Mannor hath in his own Hands, or in the Hands of his Lessee, demis'd upon a Rent, for Term of Years or Life, and such other Land appertaining to the said Mannor, which belongeth to Fee or Copy-Holders. Howbeit, the Copy-Hold belonging to any Mannor, is also in the Opinion of many good Lawyers accounted Demaynes. *Bracton Lib.* 4. *Tract.* 3. *Cap.* 9. Num. 5. saith, *est autem Dominicum, quod quis habet ad mensam suam & proprie, sicut sunt Bordlands Anglice, item dicitur Dominicum Villenagium quod traditur Villanis quod quis tempestive & intempestive sumere possit pro voluntate sua & revocare.* Of this *Fleta* also writeth much after the same manner, *Lib.* 5. *Cap.* 5. *Seet. Dominicum autem.* And the Reason why Copy-Hold is accounted Demaynes, is, because they that be Tenants to it, are judg'd in Law to have no other Right, but at the Will of the Lord; so that it is reputed still after a Sort to be in the Lord's Hands; and yet in common Speech, that is ordinarily call'd Demeans, that is neither Free, nor Copy. And here note that Demayne is sometime us'd in a more special Signification, and is opposite to *Frank Fee*. For Example, Those Lands which were in the Possession of *Edward the Confessor*, are call'd antient *Demesne*, and others be call'd *Frank Fee*. (*Kitchin Fo.* 98.) And the Tenants, which hold any of those Lands be call'd Tenants in an antient *Demesne*, the other Tenants in *Frank Fee*, *Kitchin, ubi supra.* And also Tenants of the Common Law. (*West. Symbol. Part.* 2. *Tit. Fines. Seet.* 25.) The Reason is, Because Tenants in antient Demain cannot be su'd out of the Lords Court, *Termes de la ley verbo antient Demesne*; and such Tenants, tho' they hold all by the Verge, and have none other Evidence, but Copy of Court Roll, yet are they said to have Freehold. (*Kitchin* 81.) See more

more on this Subject in the Learned *Spelman, Verbo Dominicum.*

Antient *Demefne* or *Demayne* (*Vetus Patrimonium Domini*) is a certain Tenure (as hath been before hinted) whereby all Mannors belonging to the Crown in the Days of *St. Edward*, or *William* the Conqueror, were held; the Numbers and Names of which Mannors, as of all others belonging to common Persons, after a Survey made of them, he caused to be written in a Book, now remaining in the Exchequer, and call'd *Domesday*. And, those, which by that Book appear, to have at that time belong'd to the Crown, and are contain'd under the Title *Terra Regis*, are call'd antient *Demefne*. *Kitchin Fo. 98.* Of these Tenants were two Sorts; one that held their Lands frankly by Charter, the other by Copy of Court Roll, or by the Verge at the Will of the Lord, according to the Custom of the Mannor. (*Britton Cap. 66. Num. 8.*) The Benefit of this Tenure consists in these Points. 1st, The Tenants holding by Charter, cannot be impleaded out of their Mannor; or if they be, they may abate the Writ by pleading their Tenure. 2^d, They are free from Toll for all Things concerning their Livelyhood and Husbandry. They may not be empanell'd upon any Inquest, *F. N. B. Fol. 14. d. and Fol. 228, &c.* by whom it appears, these Tenants held originally by ploughing the King's Lands, plashing his Hedges, or such like, towards the Maintenance of his Household; for which Cause they had such Liberties granted. No Lands ought to be esteem'd antient *Demefne*, but such as are held in Socage, *Bordlands* signifie the *Demefnes*, which Lords keep in their Hands, for the Maintenance of their Board or Table. It was antiently term'd *Fordagium*, or Boardage. (*Sax. Dict. Verb. Ford. Cowel's Interpret.*)

(3) *Salique Law*] Dictated to the *Franks* by four of their Nobility, or chief Men, chosen out of many others, *Anno. 422*; and so call'd from the River *Sala* in *Germany*, about which the Eastern *Franks* inhabited, or probably near it held their *Placita*, and *Conventions*, in which they made their Laws, &c. or from *Sal* or *Sala*, the same with *Aula* a Hall or Court: So that the *Salique Law*

Law was the Royal or Court Law. (Brady's *Compleat Hist. of England*, Pag. 60. *First Part of Saxon Hist.*)

(1) *Chorle*]

And whilst I'm Writing some few Things concerning our own Affairs, I think it not amiss to subjoin the following *Latin* and *English* Translation of a most antient Writing taken out of the old *Saxon* Laws, which (tho' the Original both in Tongue and Character sounds meerly *Saxon* like) yet seemeth in some Things to Savour of the *Danish* Matters, as also of the antient Laws either of the *Britons* themselves, or of the *Saxons* shaken and rent asunder under the Rule and Government of the *Danes*. It follows thus, viz.

Tempus erat olim cum Anglicis legibus & Populo, suus ubiq; constabat Honor. Qui ex populo Prudentissimi erant, in honore fuerunt, suo quisque ordine, Comes & Colonus, Thaynus & Sub-Thaynus. Quod si ita Colonus rem fecisset, ut habuerit plene quinq; bydas propriae terrae, Ædem Sacram, Coquinam, Campanile & Portam, locum item & peculiare munus in Regia Aula, tunc erat deinceps pari cum Thayno dignitate; si vero Thaynus ita proventus erat, ut Regi servierit & nuncius ejus esset & equitaverit in familia, si tunc etiam Thaynum sibi Famulantem habuerit,
qui

qui ad Regiam Expeditionem quinq; hydas babuerit, ejusq; in Regia Aula Domino servierit, terq; ejus nuncius ad Regem venerit, hic deinceps data Fidelitate Domini Personam sustinere poterat, si opus fuisset. Quod si Thaynus ita evectus erat ut Comes evaserit, pari erat deinceps cum Comite Dignitate, & si Mercator ita rem fecisset, ut ter vastum mare sua peritia trajecerit, pari tunc erat cum Thayno Dignitate. Quod si literarum studiosus literis progressum fecisset, ut Ordines haberet, & Christo inservierit, erat deinde Venerandus & immunis, quantum ad locum ejus spectabat, nisi ita excidisset ut suo munere uti non potuisset.

‘ It was sometime in the *English* Laws, that
 ‘ the People and Laws were in Reputation,
 ‘ and then were the wisest of the People
 ‘ worthy of Worship each in his Degree, *Eorle*
 ‘ and *Chorle* (1), *Theyn* and *Under-Theyn* (2):
 ‘ And if a *Chorle* so thriv’d, that he had fully
 ‘ five Hides of his own Land; a Church and
 ‘ a Kitchen, a Bell-house and a Gate, a Seat,
 ‘ and a several Office in the King’s Hall; then
 ‘ was he thenceforth the *Theyn*’s right Worthy.
 ‘ And if a *Theyn* so thriv’d that he serv’d the
 ‘ King, and on his Message or Journey rode in
 ‘ his Household, if he then had a *Theyn* that
 ‘ him follow’d, who in the King’s Expedition
 ‘ five

‘ five Hides had, and in the King’s Palace his
 ‘ Lord serv’d, and thrice with his Errand had
 ‘ gone to the King ; he might afterward with
 ‘ his Fore-Oath his Lord’s Part play at any
 ‘ need. And if a *Theyn* so thriv’d, that he be-
 ‘ came an Earl, then was he thenceforth an
 ‘ Earl’s Right-Worthy. And if a Merchant so
 ‘ thriv’d, that he pass’d thrice over the wide
 ‘ Sea, of his own Craft ; he was thenceforth
 ‘ the *Theyn’s* Right-Worthy. And if a Schol-
 ‘ lar so thriv’d through Learning that he had
 ‘ Degree, and serv’d Christ ; he was thence-
 ‘ forth of Dignity and Place so much worthy
 ‘ as thereto belong’d, unless he forfeited, so
 ‘ that he the Use of his Degree *Nemight* (3).

These

(1) *Chorle*, *Churle*, *Cheorle*, *Carle*, was in the *Saxon*
 Time a Tenant at Will of free Condition, who held
 some Land from the *Thane* on Condition of Rents and
 Services, which *Ceorles* were of two Sorts ; one that had
 hired the Lords Out-land or Tenementary Land, like our
 Farmers : The other that till’d and manur’d the In-land
 or Demains (yielding *Opus*, not *Censum*, Work, and not
 Rent) and were thereupon call’d his *Sockmen* or Plough-
 men. (*Cowel’s Interp.*)

(2) *Thane* or *Theyn*, signifies sometimes a Nobleman,
 sometimes a Freeman, sometimes a Magistrate, but more
 properly an Officer or Minister of the King. *Lamb* in his
 Exposition of *Saxon Words*. *Verb. Thanus*, and *Skene de*
Verb. Signif. saith, that it is a Name of Dignity equal
 with

with the Son of an Earl. This Appellation was in Use amongst us after the *Norman* Conquest, as appears by *Doomsday*, and a certain Writ of King *William* the 1st. *Cambden* says; they were ennobled only by the Office which they administred. The *Saxon Thane* was so call'd, from *Tenian*, Service, and in *Latin*, *Minister a Ministrando*; so that a *Thane* at first (in like Manner as an Earl) was not properly a Title of Dignity, but of Service; but according to the Degrees of Service, some of greater Estimation, some of less: So those that served the King in Places of Eminency, either in Court or Commonwealth, were call'd *Thayni Majores*, and *Thayni Regis*: Those that serv'd under them, as they did under the King, were called *Thayni Minores*, or the lesser *Thanes*.

(3) *Nemight.*] That it may appear what Degrees of Nobility and Gentry, there were in this Realm before the coming in of the *Normans*, and by what Merits Men might ascend and be promoted to the same. *Lambert*, in his Perambulation of *Kent*, (*Pag. 500.*) presents to the View of his Reader this *Saxon* Antiquity, which he hath seen plac'd in divers old Copies of the *Saxon* Laws, after the End of all as a Note or Advertisement.

By this (saith he, *Pag. 502.*) you see first, That in those Days there was but three Estates of Free-Men (for Bond-Servants, which we do now since call by a strain'd Word, Villains, are not here talk'd of) that is to say, 1. An Earl or Nobleman the highest. 2. A *Theyn* or Gentleman, the middle-most. And 3. A *Churle* or Yeoman, the lowest: And as touching that which is here spoken of the Servant of the *Theyn* or Gentleman, I deem it rather meant for a Prerogative belonging to the Master, than mention'd as a several Degree in the Man. Secondly, You may here behold, with what Discretion and Equity our Elders proceeded in bestowing these Promotions; for whereas all Nobility and Gentry is either Native or Dative, that is to say, cometh either by Descent or *Purchase*, whereof the first, if it be not accompanied with Virtue, is but an empty Sign and none other Thing, than (as one well said) *Nobilitatem in Astagulis gestare*. But the Latter (being both the Maker and Maintainer of the First), as it ought by all Reason to be rewarded with due Ensigns of Honour,

to the End that Vertue may the more desirously be embrac'd: So have they here appointed their severall Pathways to lead Men straight unto it, that is to say, Service, Riches, and Learning, or (to speak more shortly) Vertue and Riches; in which two (as *Aristotle* confesseth) all the old Nobility consisted, and which two (as the *Ecclesiastes* or Preacher teacheth) maketh a good Accomplement; for (saith he) *Utilior est Sapientia cum Divitiis conjuncta*. Thirdly and Lastly, you may perceive also that out of all those Trades of Life, which be (*Χρηματισμὸς*) that is to say, conversant in Gain, they admitted to the Estate of Gentry, such only as increas'd by honest Husbandry, and plentiful Merchandize. Of the first of which *Cicero* affirmeth, that there is nothing meete for a Free-born Man. And of the other, that it is Praise-worthy also, if at the Length being satisfied with Gain, as it hath often come from the Sea to the Haven, so it change from the Haven into Land and Possessions. And therefore in my Fantasy, (*Lambert* goes on) whereas *Gervas Tilburiensis* (in his Observation of the *Exchequer*), accounteth it abasing for a Gentleman to occupy *Publicum Mercimonium*, common Buying and Selling, it ought to be referred to the other two Parts of Merchandize, that is, to Negotiation, which is retailing or keeping of a standing Shop, and to Investion (which is to exercise Mercery), or some call it to play the Chapman; and not to Navigation or Merchandize, which (as you see) is the only laudable Part of all Buying and Selling. And again, whereas the Civil Law saith, *Patricii cum Plebeiis conjugia ne contrahunt*; and in our Law it is accounted a Disparagement for a Ward in Chivalry, (which in old Time was as much to say as a Gentleman), to be married to the Daughter of one that dwelt in a Borough, I think that it also ought to be restrained to such only as profess'd Handicrafts, or those baser Arts of Buying and Selling, to get their Living by. (Thus far *Lambert*).

Now for *Verstegan's* and *Selden's* Explanation of this Saxon Piece. To begin with *Verstegan*. Forasmuch (saith he) as Gentry hath risen out of Yeomanry, it will not be here impertinent briefly to shew the Manner of some Mens Rising in the Time of our Saxon Ancestors, which was thus: If it so happened that a *Keorle* (otherwise one of the Yeomanry) did thrive so well through
his

his honest Travel, that he attained unto five Hides of his own Land, and was able to keep a good House, allowing some Stipend for the Maintenance of Divine Service in either Church or Chapel, obtain'd some Office or Employment about the King's House, or in some Sort to do him Service; he was thenceforth reputed worthy of the Name and Title of *Thegn* or *Theyn*, which was then accounted as a free Servant, or as a kind of Retainer, or as it may seem a serving Gentleman, that is a Servant not bound or subject unto any servile Office or Labour: And if he came so well forward in Means and Credit, that the King employ'd him, either on his Errand, or to ride in his Train, and that himself was able to maintain others under him, he was worthy to be reputed a *Hlaford*. And continuing to Augment his Credit and Means, he might afterward come to be an Earl, with the Title (as they then spake) of an Earl Right Worthy, which after, of our new used Stile, may be a Right Honourable Earl. An Example of rising from so mean or meaner Estate, may appear in Earl *Goodwin*, who being at the first but the Son of a Cowherd, came to be (as I take it) the greatest Subject that ever England had. For he was Earl of *Kent*, *Sussex*, *Hampshire*, *Dorsetshire*, *Devonshire*, and *Cornwal*, Father-in-Law to King *Edward* the Confessor, by the Marriage of *Edgitha* his Daughter, and Father to King *Harold* that next succeeded the said King *Edward*. If a Merchant so thrived, that he was able by his own Means thrice to cross the Seas, he was thenceforward reputed a Right Worthy *Theyn*, and capable of a higher Advancement; in like Manner, if a Scholar so profited in Learning, that he took Degrees in Schools, and carried himself vertuously, he could not want the Worship due unto his Condition. (*Restitution of decay'd Intelligence*).

Selden's Explanation comes next, he saith, the Possessions of the *Thanes*, or their *Thain* Lands, held of the King by the Service of personal Attendance, were at least five Hides of his own Land, if we may give Credit to that *Saxon* Relation (*Apud Lamb. in Itinera Cantii, Pag. 500.*) of the Dignities of those Times. If a *Churle* or Countryman so thriv'd, that he had five Hides fully of his own Land, a Church, a Kitchen, a Bell-house, a Borough-Gate, with a Seat, and any distinct Office in the King's

Court, then was he thenceforth of equal Honour or Dignity with a *Thane*; or as the old *Latin* of it is in some Copies, (*Si Villanus excrevisset ut haberet plenarie 5 Hidas terra sua proprie, Ecclesiam & coquinam, Timpanarium & januam & sedem & sundernotam in Aula Regis, deinceps erat Thani lege dignus*). I cannot understand here the five Hides, but for so much Land held of the King by the Service of that Office or some Military Attendance; otherwise if he had had an Office only, or otherwise serv'd the King, and so were a personal *Thane* or Servant, yet he was not a Feudal and Honorary *Thane*, which only is the Subject here. And in the same Copy, where we have that *Latin* Translation of the *Saxon* Passage before cited, occurs also among King *Athelstan's* Laws, *Si Ceoplman provebatur, ut habeat 5 Hidas terra ad Uswaram Regis*, (that is, held of the King by Knight's Service) *& occidatur, reddantur duo Millia Thrymsa*, which is as much as to say, that he was of like Condition or Dignity with a *Thane*. For the *Weregild* of a *Thane* was 2000 *Thrymsaes*, as we see before out of the Printed Laws of King *Athelstan*. Hence also the Nature of five Hides may be the better understood, as also that other Description of the Quality of a *Thane* among the same Laws: *Thaini Lex est, ut sit dignus rectitudine Testamenti sui, & ut tria faciat pre terra sua, Expeditionem, Burhbotam & Brughbotam*. Those two last are the same that commonly occur in the *Saxon* Reservations by the Name of *Acris Pontiq*; *Constructio* or *Exstructio*, and with the other are together, I remember, called in some Charters to the Church of *Canterbury*, *Trinoda Necessitas*. Now an Hide of Land regularly is, and was (as I think) as much Land as might be well manured with one Plough, together with Pasture, Meadow and Wood, competent for the Maintenance of this Plough, and the Servants of the Family. I know divers of the Ancients make it an hundred Acres; others give otherwise a Certainty to it. But doubtless it was uncertain, and justly is by others call'd only a Plough-Land, or so much as belong to the Tillage (whence it must of Necessity be various, according to the Nature of the Soil and Custom of Husbandry in every Country). Thence is it, that in *Doomsday*, such a Place *Geldabat pro* 10, 12, 20, &c. *Hidis*, that is, it paid after the Rate of

of so many Hides; (for by Hides, the usual Payments of Subsidies and Aids were in the elder Times, and that which was always discharged, was often called *Terra non Hidata*, as the other *Hidata*): But the just Value of an Hide, that might fit the whole Kingdom never appears there. And in an old Court-Book of the Manor of *Cranfield* (temp. Hen. 3. MS. in Biblioth. Cotton. & penes Remorator. Regis in Scaccario.) that was of the Possessions of the Abby of *Ramsay*; the Homage (at a Court of Survey) *Dicunt quod nesciunt quot Acra faciunt virgatam, quia aliquando 48 Acra faciunt Virgatam, & aliquando pauciores. Quatuor Virgate faciunt Hidam. Dominica non est Hidata, Persona tenet terram, sed nescitur quantam. Nihil inde Domino Abbati, quia est Eleemosyna, non est Hidata, &c.* where we see as *Virgate*, so *Hida* was uncertain; yet in that Uncertainty, the whole Content of the Town was counted twelve Hides, which yet *Quantum ad Regem computabatur pro decem Hidis*, as the Book says, and that *Quatuor Virgate faciunt Hidam, & 48 Acra faciunt Virgatam*, whence it must follow that 192 Acres, in this Place, made an Hide. And according to this Uncertainty of *Yards, Lands, Oxgangs, Selions, Acres*, (for they are all to be reckon'd also according to the several Customs of Countries), Hides were of uncertain Quantity; divers other Testimonies might be brought to this Purpose.

The rest of the Particulars that concerns a *Churle* becoming a *Thane* in that *Saxon* Piece, describes only (as I conceive) the State or Fashion of an eminent Lord of that Time, in having a Church for his Family and Tenants, in keeping a Court for them (which may well be meant in the Borough-Gate or Town-Gate, with a Seat), and in keeping an House or Entertainment competent to that Dignity, which may be understood in the Kitchen and Bell-House. The Bell-House may denote the Hall, which was the Place of ordinary Diet and Entertainment in the Houses of Lords. It may well so signify, if the *Saxons* us'd the like Reason in imposing the Name on the Lord's Hall; as some say the *Italian, Spanish, and French* have done in calling it *Tinello, Tinelo, and Tinel*, which in our Laws, (13 R. 2. Cap. 3.) also is retained in *Tinel le Roy*, for the King's Hall. They would have it

therefore so nam'd ; because the *Tim* or Tingling of a Bell at the Times of Dinner and Supper in it were signified by it. (*Tit. Hon. Part. 2. Cap. 5. Pag. 515, 516, 517. in Part. Sect. 4.*)

(1) Nobility.]

These Ruins or Rubbishes of Antiquity make shew of a Perpetuity of Nobility, even from the Beginning of this Island : But *Tempora mutantur & nos mutamur in illis*. For King *Edward* the Confessor, last of the *Saxon* Blood, bringing with him out of *Normandy* the Title of a Baron, the *Thanes* from that Time began to grow out of Use, and in process of Time to lose even their very Names, But the Name of Baronage began at length, to be both in Dignity and Power so Magnificent above the rest, as that therein all the Nobility (1) of *England* seem'd to be comprehended. As for *Dukes*, they were (as it were) fetch'd from long Exile, and again renewed by King *Edward* III, and *Marquesses* and *Viscounts* were altogether newly brought in by King *Richard* II, and King *Henry* VI.

But

(1) Nobility.] it is to be observ'd, that in ancient Records the Barony (under one Word) included all the Nobility of *England*, because, regularly all Noblemen were Barons, tho' they had an higher Dignity ; and therefore

fore of the Charter of King *Edward* the 3d, the Conclusion is, viz. *Testibus Archiepiscopis, Episcopis, Baronibus, &c.* so plac'd in Respect that the Barons included the whole Nobility, and the great Council of the Nobility, when there were besides, Earls and Barons, Dukes and Marquesses, were all comprehended under the Name *De la Councel de Baronage.* (*Co. Inst. 2. Pag. 5.*)

(1) Sex.]

But our Kings descended of the *Norman* Blood, granted an hereditary and successive Perpetuity to honourable Titles, (such I mean, as are the Titles of Earldoms and Baronies), without any difference of Sex (1) at all, which Thing I could by many Examples of Antiquity make manifest, but that by so doing, I shall draw out this Discourse into too great a Length: However three Things I especially recommend to the Reader's Consideration. 1. The Dispositions and Inclinations of our Kings in creating of the Nobility. 2. The Custom of transferring of Honours and Dignities by Families. And 3. The Force of Time, and the Change and Alteration of Things.

For

(1) Sex.] *Coke, Inst. 1. Cap. 1. Sect. 9. Tit. Fee-simple* faith, There be some that have an Inheritance, and have it neither by Descent, nor properly by Purchase, but by Creation, as when the King doth create any Man a Duke, Marquess, Earl, Viscount or Baron, to him and

his Heirs, or to the Heirs-Male of his Body, &c. he hath an Inheritance therein by Creation. A Man may have an Inheritance in Title of Nobility and Dignity three manner of Ways; that is to say, by Creation, by Descent, and by Prescription. By Creation two Manner of ordinary Ways, (for I will not speak of a Creation by Parliament); first by Writ, and secondly by Letters Patent. Creation by Writ is the ancients Way, and it is to be observed, that if a Man be generally called by Writ to the Parliament, he hath a Fee-simple in the Barony without any Words of Inheritance. But if he be created by Letters Patent, the State of Inheritance must be limited by apt Words, or else the Grant is void. And to this Purpose (in *Sect. 3.*) Grant, *Concessio* is properly of Things incorporeal, which cannot pass without Deed, And here it is to be observed, (that I may speak once for all, saith *Coke*) That every Period of our Author (meaning *Littleton*, upon whom he comments) in all his three Books, contains Matter of excellent Learning, necessarily to be collected by Implication or Consequence: For Example, he (*viz. Littleton*) saith here, that these Words (his Heirs) make an Estate of Inheritance in all Feoffments and Grants; he expressing Feoffments and Grants, necessarily implieth, that this Rule extendeth not, first to Last Wills and Testaments, &c. nor to a Creation of Nobility by Writ; for when a Man is called to the upper House of Parliament by Writ, he is a Baron, and hath Inheritance therein without the Word (Heirs); yet may the King limit the general State of Inheritance created by the Law and Custom of the Realm to the Heirs Male, or general of his Body by the Writ, as he did to *Bromflete*, who in 27 *Hen. 6* was call'd to Parliament by the Name of the Lord *Vescey*, &c. with the Limitation in the Writ to him and Heirs Male of his Body; but if he be created by Patent he must of Necessity have these Words (his Heirs) or the Heirs Male of his Body; or the Heirs of his Body, &c. otherwise he hath no Inheritance. To return again to *Sect. 9.* And it is to be observ'd (saith *Coke*) that Nobility may be granted for Term of Life, by Act in Law, without any actual Creation, as if a Duke take a Wife, by the Inter-Marriage she is a Dutches in Law, and so of a Marquess, an Earl, and the rest, and

in some other Cases. And there is a Diversity between a Woman that is Noble by Descent, and a Woman that is Noble by Marriage; for if a Woman that is Noble by Descent, marry one that is under the Degree of Nobility yet she remaineth Noble still; but if she gain it by Marriage, she loseth it, if she marry under the Degree of Nobility: And so is the Rule to be understood, *Si Mulier Nobilis nupsierit Ignobili, desinit esse Nobilis*. But if a Dutchess by Marriage, marrieth a Baron of the Realm, she remaineth a Dutchess and loseth not her Name, because her Husband is Noble, *Et sic de Cateris*. And as an Estate for Life may be gain'd by Marriage, so may the King create either Man or Woman Noble for Life, but not for Years, because then it might go to Executors or Administrators.

Coke speaking of the various Kinds of Estates-Tail, (*Inst. 1. Sect. 14 and 15. Tit. Fee-tail*), saith, that among other Things that may be entail'd, a Name of Dignity also may be entail'd, (by the *Stat. of Westm. 2.* which created Estates-tail), as Dukes, Marquesses, &c. because they be nam'd of some County, Manor, Town or Place. Coke having in his *Inst. 1. Lib. 3. Cap. 3. Sect. 241.* (*Tit. Parceners*), shew'd of what Inheritances Daughters shall be Comparceners, and how and in what Manner Partition shall be made between them, saith; But now let us turn our Eye to Inheritances of Honour and Dignity; and of this, there is an antient Book-Case in *23 H. 3. Tit. Partition 18.* in these Words: Note, If the Earldom of Chester descend to Coparceners, it shall be divided between them as other Lands, and the eldest shall not have this Seigniorie and Earldom entire to herself. *Quod nota, adjudg'd per totam Curiam*. By this it appeareth, that the Earldom (that is, the Possessions of the Earldom) shall be divided; and that where there be more Daughters than one, the Eldest shall not have the Dignity and Power of the Earl, that is, to be a Countess. What then shall become of the Dignity? The Answer is, that in that Case, the King who is the Sovereign of Honour and Dignity, may for the Incertainty confer the Dignity, upon which of the Daughters he please; and this hath been the Usage since the Conquest, as it is said. But if an Earl, that hath his Dignity to him and his Heirs, dieth, having Issue one Daughter, the Dignity shall descend to the Daughter;

Daughter; for there is no Incertainty, but only one Daughter, so the Dignity shall descend unto her and her Posterity, as well as any other Inheritance, and this appeareth by many Precedents, &c. But there is a Difference between a Dignity or Name of Nobility, and an Office of Honour. For if a Man (*Exempli Gratia*) hold a Manor of the King to be High Constable of *England*, and die, leaving Issue two Daughters, if the eldest Daughter taketh Husband, he shall execute the Office solely, and before Marriage it shall be exercis'd by some sufficient Deputy: And all this was resolv'd by all the Judges of *England*, in the Duke of *Buckingham's* Case, 11 *Eliz. Dyer* 285. But the Dignity of the Crown of *England* is without all Question descendable to the eldest Daughter alone, and to her Posterity, and so it hath been declared by Act of Parliament. (25 *H. 8. Cap. 22.*) For *Regnum non est divisibile*. And so was the Descent of *Troy*.

*Præterea Sceptrum Ilione quod gesserat olim,
Maxima Natarum Priami Virg. i. Æneid.*

If a Castle that is used for the necessary Defence of the Realm, descend to two or more Coparceners, this Castle might be divided by Chambers and Rooms, as other Houses be: But yet for that it is *pro Bono Publico*, & *pro Defensione Regni*, it shall not be divided; for as one saith, (*Bracton. Lib. 2 Fol. 76. Fleta. Lib. 5. Cap. 9.*) *Propter jus Gladii dividi non potest*. Thus much, with a short Description of the Conclusion of Noblemens Patents, out of *Coke*, relating to Nobility, shall suffice. *Inst. i. Sect. 1.* he tells us in these Words, that the antient Charters of the King which passed away any Franchise, or Revenue of any Estate of Inheritance, had ever this Clause, *Hiis Testibus*, of the greatest Men of the Kingdom, as the Charters of Creation of Nobility yet have at this Day: When *Hiis Testibus* was omitted, and when *Teste meipso* came into the King's Grants, you shall read in the 2d Part of the *Institutes; Magna Charta, Cap. 38.* there in his Division of that Chapter into six Parts, *Hiis Testibus* is the last, and is thus explained by him; *viz.* It is true, that of antient Time nothing passed from the King of Franchises, Liberties, Privileges, Manors,

Manors, Lands, Tenements, and Hereditaments of any Estate of Inheritance, but it was by the Advice of his Council, express'd under *His Testibus*, as it was then, and continues to this Day in the Creation of any to any Degree of Nobility; for thereto *His Testibus* is still used. This Conclusion of the King's Grants with *His Testibus*, was used by King *Henry* the 3d, and his Progenitors, Kings of this Realm before him, and by his Son *Edward* the 1st, and by *Edward* the 2d, and *Edward* the 3d after him; afterwards in the beginning of the Reign of *Richard* the 2d, I find the Clause of *His Testibus* was left out, and instead thereof came in *Teste meipso* in this manner; in *Cujus Rei Testimonium has literas Nostras fieri fecimus Patentes, Teste meipso*; which since by all his Successors, Kings and Queens of this Realm (except in Creations) hath been us'd. Those that had *His Testibus*, were call'd *Charta*, as this Charter is call'd *Magna Charta*, and so in *Charta de Foresta*, &c. And those other, that be *Teste meipso* are call'd *Letters Patent*, being so nam'd in the Clause of *in Cujus Rei Testimonium has literas Nostras fieri fecimus Patentes*: *Inst. 2. Pag. 77. Magna Charta, Cap. 38.*

Now as to a particular Description of Feminine Titles; and of the Creation of a Dutches, &c. in *England*, Of the Communication of Titles of Honour to Women from their Husbands, and of enjoying some as Consequents only of the Dignity of their Husbands or Parents. The Title of Lady or *Domina*; of the Hereditary Transmission of Titles of Honour to Heirs of either Sex; of Transmission of them by Assignments or Grants; Transmission of them by the very possession of the Feuds to which they have been annex'd; *Selden's Authority* is again call'd for. What hath been hitherto deliver'd (saith he) touching these Dignities, chiefly concerns them as they are Masculine only. We reserv'd till now those of the other Sex, which have (according as the Laws of several Nations permit them) the most of those Dignities in Feminine Terminations; as Princess, Dutches, &c. and what else is or hath been a Dignity either originally Feudal or merely Honourary, excepted such as have so personal a relation to Arms, as that Women are not capable of them, as those of Knights; as also the *English* Title of Baronet, wherein

wherein what Interest this Sex hath, appears enough in the Patent that makes it, which is before at large inserted. Of Feminine Titles, some are immediately created in Women, some are communicated by their Husbands, others are transmitted to them from their Ancestors, and some also are given to them as Consequents only of the Dignity of their Husbands or Parents. And first of those that are immediately created in them.

First, The Form of the Letters of creation of a Dutcheſs in *England* (for herein we shall use only *English* Examples, being not furnished with the like of other Nations, altho their Stories are full enough of these Feminine Titles,) we have in that of *Richard* the 2d's Creation of *Margaret*, Countess of *Norfolk*, into the Title of Dutcheſs of *Norfolk* for Life; wherein the Investiture is mention'd in the Patent to be by putting on her a Cap of Honour, (*Cart. 21. R. 2. Memb. 12. Num. 18.*) But the Truth is, that there was no Ceremony of Investiture us'd at the delivery of the Patent, which was sent to her by the King sitting in Parliament. And that in the Parliament Roll is suppos'd to be her Creation.

For a Marchioness; The Lady *Anne Bulloign* (afterward Wife to *Henry* the 8th) by the Name of *Anne Rochford*, being eldest Daughter to *Thomas Bulloign*, Earl of *Wiltshire* and *Ormond*, and Viscount *Rochford*, was created Marchioness of *Pembroke*. The Estate limited to her and the Heir Males of her body to be begotten, with 25 *l.* Yearly for creation Money. And another Patent was given her the same Day for her Place and Precedence, which in the Record is very Observable.

The Title of Countess was given by King *James*, to the Lady *Mary Crompton*, Mother to the late Duke of *Buckingham*, the now Wife of Sir *Thomas Crompton* Knight, whom he created Countess of *Buckingham* for her Life, by general Words of *Præfimus*, *Creamus*, *Insignimus*, &c. but without any particular Clause of formal Investiture, which yet was, it seems, so consider'd of in the Draught, that a special Grant with a *Non-Obstante*, is added in the Close of the Patent, which for further Satisfaction I refer the Reader to.

The Example of a Viscountess created, is in that of the Lady *Finch*, made Viscountess of *Maidstone* by King *James*,

James, (Pat. 21. Jacobi. part 8. Num. 4. Julij 8.) to her and the Heirs Male of her Body, with a special Clause that her Heirs Male should have Voice and Place in Parliament, *Et inter Alios Vice-Comites. Et ante Barones, ut Vice-Comites* Maidstone; But see in the Rolls her Patent of creation since made to her also of the Title of Countess of Winchelsea, for an Example of Feminine Creations. And for the Title of Baroness, settled by a mixture of Creation and Restitution; see the Example of the Baroness *le Despencer* in the time of K. James, and the Baroness *Ogle* in the time of his Majesty, that now is. (viz. King Charles the 1st.)

Second, The Communication of Titles to Women, we see in Wives that have the Feminine of what their Husbands are, which is according to the antient Laws of the Empire, as *Femina nupta Clarissimis Personis Clarissimarum Personarum Appellatione continentur*. And *Consulares Feminas dicimus consularium uxores* (says Ulpian). And *Nupte prius consulari viro*, saith he, *impetrare solent a Principe, quamvis petiero, ut Nupte iterum minoris Dignitatis Viro, nihilominus in consulari maneant Dignitate, ut Antonium Augustum, Julie Mammae consobrine sua indulgisse*. That of the Emperors *Valentinian*, *Theodosius*, and *Arcadius*, belongs also to the communication of Titles; *Mulieres Honore Maritorum Erigimus, Genere Nobilitamus*, &c. Such more are obvious, and agree for the most part with the Customs of the present States of Christendom. But for the Question, whether, or how far these Dignities so communicated continue after the Death of the Husbands; *Selden* refers you to the Authors quoted in the Margin, and others.

By Titles attributed to that Sex, by consequence only of those, which are in their Parents or Husbands, we mean that of Lady given with us, to Knights Wives, and Baronets Wives, altho' the Masculine of it Lord, be not in their Husbands. Of the same kind for matter of Consequence only, is the Title of Lady attributed to all the Daughters of Earls, and of all Dignities above them, but by Custom, which makes the rule in all Civil Matters. The Ladies that are Knights Wives are in Conveyance for the most part styl'd Dames, and other Ladies only of greater Honour, Ladies, which we see is a Title much more frequent-

frequently given with us to this Sex, than Lord to Males.

Some such or greater Indulgence of that kind was in the old Empire to that Sex. For altho' the Word *Domine* were in that Notion, wherein it belong'd properly to Salutation, us'd frequently without expressing the Name of the Person Saluted, as *Domine Frater* also in *Apollinaris*, and in like sort as our Word Sir is at this Day, Signior, and the like (where we express nothing of Honour, but Salutation or Compellation only, as also *Adoni* and *Rabbi* was, which signifies but the same among the *Jews*) yet the Word *Domina* was given to Women for a special Note of Honour to them. *Scævola* remembers it in this part of a Will, which he cites: *Peto a te, Domina uxor, ne ex Fundo Titiano partem Tibi vendices.* The same Lawyer hath another piece of a Will, wherein the Husband speaks thus to his Wife; *Domina Sanctissima, scio te de Amicis meis Curaturam, ne quid hic desit.* And of another, *Uxori suæ* (saith he) *Testamento ita legatum est, Sempronia Domina mea hoc amplius Argentum Balneare.* And in one of the Novels, concerning the Solemnities of Marriage; *Justinian* finding Fault with such as without those Solemnities liv'd together as Man and Wife, says, that it was come to such a Pass, that Witnesses were ordinarily suborn'd, who would Swear, *quia vir vocabat Mulierem coherentem, & ista illum similiter nominabat; & sic eis finguntur Matrimonia non pro veritate confecta.* I understand it, that the Man call'd the Woman, or the Lady, or *Kveia* (under which name also the 2d Epistle of St. *John* is directed to a Woman) Wife or *Συνοικῆσα*, and the Woman likewise call'd him *Συνοικῆσα* or Husband, and so they fram'd up Marriages, that in Truth were none.

Here also *Kveia* or *Domina* is us'd absolutely in the 3d Person; *Dominus* being not so (as far as I remember) in those times for a Man, as also *Julia Domina* is in the 3d Person in *Scævola*, as if we should say, the Lady *Julia*, for one that was Niece to *Julius Agrippa*. *Qualitum est* (the Words of *Scævola*) *an ea Prædia extraneus Heres haberet, an vero ad Juliam Dominam, quæ habuit Patrum Majorem Julium Agrippam pertinerent.* But *Cujacius* understands that use of *Domina*, proper to Matrons in the Empire. By this Sense of *Domina* is that of *Epiſtetus* to be

be understood ; Men (saith he) usually call'd Women (after 14) *Kvela*, *Domina* or Ladies. And with us antiently in *Bracton's* time, such Women as were to have leave of the King to be Married, or to have Husbands by his Appointment (as the Widows of all Tenants in chief, and Daughters and Heirs of his Tenants by Knights Service) were call'd *Domine* absolutely, as we see in the old Articles of the *Eire. De Dominabus qua sunt* (so are the Words of one of the Articles, *Bracton lib. 3. de Corona Pag. 117.*) *Et esse de Donatione Domini Regis sive sint Maritata sive non, Et si sint maritata, quibus, Et per quem, Et quantum terra valent per Annum.*

Third, It rests, that we speak somewhat of the Transmision of Titles to Women, which, because it hath divers particulars common with the transmision to Males, and for that something is fit to be added touching the transmision as well to the one Sex as to the other, shall have joyn'd with it, what concerns Males also. The Transmision of Titles of Honour from those, in whom they are first created (it must be understood of such Estates in the Titles, that are extendible any way further then the Person in whom they begin) is various. I purposely abstain to speak of all kinds of it ; but I shall specially, and that but cursorily Note only 3. The 1st by Express limitation, and so descent of them to the Heirs ; the 2d by Assignment of them ; and the 3d by the very Possession of the Territories to which they are inseparably annex'd. To the Limitation of them and Descent to Heirs, somewhat that is already noted, where we speak of Feuds, is applicable. And touching the Succession of Females in Feudal Dignities, if in a nearer Degree, than Males, see the Feudists and others, that obviously dispute it, and usually shew the Customs and Contracts us'd that concern these Descents in their own Countries, where they wrote. For by those Customs and Contracts, and the limitations in the Instruments of Creation (whereof divers Examples are before shew'd) these transmisions are regulated. And without Customs or Contract to the contrary, a Female upon a General limitation to the Heirs, may be Heir as well as Male.

And for *England* ; observe what was antiently taken for Law in Cases of Descent to or through Females, out of the

the Patent to *John*, Earl Palatin of *Pembroke*, under *Edward* the 3d, in Cases where a Man died seiz'd in Fee of a Dignity, leaving 2 or more Daughters or Sisters, or others Claiming thro' Daughters and Sisters as Co-heirs to the rest of his Inheritance. But to that Example of the Earl of *Pembroke* joyn another of the Palatin Earldom of *Chester*, and of the Earldom of *Northampton* under *Henry* the 3d, which differs from it. The Sisters and their Posterity had for the Lands of the Earldoms, other Lands in exchange from the King, but none of them had the Title of Earl or Countess upon the Death of *John* Scot Earl Palatin of the one, and Earl of the other, their Brother and Ancestor that dy'd seiz'd in Fee of it: The Case is shortly remembred in *Fitz-herbert* (23 H. 3. Tit. Partition 18. & Rot. Claus. 21 H. 3. Memb. 1.) And *Walsingham* speaking of *Cheshire*, and the Death of Earl *John*; *deficiente Hærede devolutus est in Possessionem Regiam Comitatus*. Other Examples of less note may be collected out of the Descents of the Earls and Barons. But it seems, *Bracton's* Opinion (he liv'd under *Henry* the 3d) was according to those Lawyers, that advis'd in the Case of the Earldom of *Pembroke*, under *Edward* the 3d, and that every Sister upon a Partition might (if there were whole Dignities enough) have one. He speaking of the Partition of Inheritance between Heirs Females, says, that chief Houses also may be divided, *sive sint in diversis Baronis constituta sive non* (*de acq. rer. Dom. Lib. 2. Cap. 3. fo. 75 & 76.*) Husbands being also rais'd into any of the 2 Dignities of Earl or Baron by reason of the Right descended on their Wives, belong to this point of transmission.

Fourth, The Transmission of the greater Titles (understand here those that are Feuds) by Assignment of them is most especially seen in the Stories of *France*; where Counties in the antient Baronies are frequently assign'd by the Possessors. But we must herein think chiefly of the antienter Times, when those Titles or the Feuds annex'd to them, were given to the Persons that first bore them, as to their Heirs for the most part, and not restrain'd to the Heirs of the Body, or to Males only, as the most are at this Day, and for many Years have been, especially in *England*. Some Cases we also have of it in *England*, as in

in that of the Earldom of *Lincoln*, granted by Earl *Randall* to his Sister, to Lady *Hawise* and her Heirs under *Henry* the 3d: And it seems by the Witnesses to the Deed of Conveyance, that it was not done without good Will and Advice. Observe that the Earl Marshal, and the Lord Chief Justice of *England* were both among them. The Original of it remains yet under the Earl's Seal. That of the Earldom of *Leicester* under the same King is of the like nature. *Simon* of *Monford*, Earl of *Leicester* in Fee, died leaving 2 Sons, *Almarick* and *Simon*. *Almarick* the eldest, granted and releas'd all his Right to *Simon*, and so he was Earl of *Leicester*, and receiv'd his Investitures from the King (*Cart. 23. H. 3. N. 32, & 34. Matth. Paris Pag. 647. lin. 28.*) Other Occurrences of Releases, Surrenders, and Grants of Dignities are found without much Difficulty among them that have collected the Earls of *England*.

Fifth, How the Possession only of such Feuds as support the greater Titles, carries with it or not the Titles first granted with them, may be seen in the Feudists and other Lawyers, that frequently dispute of it. And more especially for this, and other kinds of Hereditary Transmission of Dignities: See those Disputations of *Franciscus Niger* and *Fredericus Posius* (one a Lawyer of *Mantua*, the other of the Empire) concerning the late Succession into the Dutchy of *Mantua*, lately Publish'd. But we have a singular Example of such Possession in *England*, in the Case of *Arundel* Castle, adjudg'd in Parliament under *Henry* the 6th. *John*, Lord *Maultravers* and Earl of *Arundel* exhibited his Petition (as he had done in divers Parliaments before) claiming to have Place and Voice in Parliaments and Councils, as Earl of *Arundel*, and so shew'd that he was now seiz'd of the said Castle, Honour, and Lordships. This Petition being read, *John* Duke of *Norfolk* being within Age, and in Ward to the King, exhibited first one Petition and then another, shewing in general, that the Castle and Title belong to him by Inheritance, and desires, that he may not be prejudiced in his Non-Age. The Counsel of the Lord *Maultravers* alledge, that he ought not to be delay'd by reason of the Duke's Non-Age; and no special Title was shew'd in Record on the Duke's Behalf, or found by any Office after the Death

of his Father, and therefore they pray'd Judgment. Thereupon the King and the Lords commanded the Counsel of the Earl to give in his Title more particularly in Writing; they do so, and therein they Claim for him the Title as in their first Petition, only by reason of the Possession of the Castle, and by reason, they say, it had been in his Ancestors. And the Castle they derive to him by a special Entail made by Fine under *Edward* the 3d, to the Heirs Males of the Body of *Richard* than Earl of *Arundel*, begotten on the Lady *Eleanor* his Wife; the Duke of *Norfolk* being the Heir General to the same Earl *Richard*, and the Earl Heir Male.

And in another Parliament of the same King, it was adjudg'd upon the same Reason of the Possession of the Castle, that his Heirs also should have place in Parliament the Question and Pleas arising between *William* Earl of *Arundel*, Brother to this *John*, and *Thomas* Earl of *Devonshire*. (*Rot. Parl.* 11. *H.* 6. *Memb.* 9. *Art.* 33, 34, 35. 27 *H.* 6. *Art.* 18.) See also *Rot. Cart.* 15. *Ed.* 4. *Num.* 18. *de Creatione Edwardi Grey Militis Domini de Lisle.*
(1) *Absolute.*]

For our Kings (who only and alone do in their Kingdom bear the Absolute (1), tho' not Arbitrary (2), Rule and Sway) are with us efficient Causes of all Political Nobility.

In

(1) *Absolute.*] This Word, when attributed to the Kings of *England*, is to be understood not in respect of Laws, but of Tenure. They hold not of the Pope or Emperor, or any other Person or State. (*State Tracts.* *Fol.* *Vol.* 1. *Pag.* 170.)

(2) *Arbitrary.*] We must know that the *English* Government is not in the Hands of one Person: There is one King; that King is Sovereign: But he is not in the Possession of all the Sovereign Power; he who cannot make Laws,

Laws, nor break them, is not in the Possession of Arbitrary Power; The Parliament partakes of the Legislative Authority with the King. The People have their Privileges which the King and Parliament cannot take from them. The Lawyers Maxim, *Princeps legibus Solutus est*, is not thing to our Purpose: By the Prince is understood one, that is Sovereign, and a Magistrate that is Arbitrary and Unlimited. Unhappy are the People, who have got such Masters, who have suffer'd their Privileges to be Disannull'd; but the People and the Nations, which are so happy as to preserve the Bulwarks, which, in the Establishment of their Monarchy, have been rais'd against the Ambition of their Princes, are very Wise in maintaining them. The King of *England* does not Boast, that he is above the Laws, for he is oblig'd to Reign according to the Laws: If there be any Sovereign in *England*, who is above the Law, it is the Parliament and King together. This Sovereign makes Laws and repeals them, and so is not bound thereby; but the Parliament alone can neither make, nor repeal Laws, neither can the King alone do it.

Four things especially declar'd in the Act of Settlement secure us from Oppression, Tyranny, and Arbitrary Power. 1. The rejecting of either a Dispensing or Suspending Power. 2. All Grants of Money for or to the Use of the Crown, reserv'd to the Parliament for the time being. 3. The Disbanding of standing Armies in time of Peace, unless the Parliament give consent to the keeping them on foot. 4. The Settling of the Succession of the Crown. I need mention nothing else contain'd in this Act, to shew that we are the only Subjects in the World that can boast of Liberty and Freedom, in case our Princes cannot dispense with our Laws, as they cannot without our Leave, since they are not to give us, for the only Reason of their Kingly Actions, *Tel est nostre bon Plaisir*, Their good Will and Pleasure (the highest mark of Arbitrariness) as the *French* King does; for however the *French* Modès have at any time taken with us, we could never fall in Love with so Absolute and Arbitrary a Mode as this. As our Kings must act by Law, and not Absolutely, tho' real Kings, they do nothing of Moment, but by, and with the Advice of their Parliaments. Our Happiness then consists in this, that our Princes are tied up to the Law as well as

we, and upon an especial Account oblig'd to keep it up in its full Force; because if they destroy'd the Law, they destroy at the same time themselves, by Overthrowing the very Foundation of Kingly Grandour, and regal Power. So that our Government being not Arbitrary, but Legal, not Absolute, but Political: Our Princes can never become Arbitrary, Absolute, or Tyrants, without Forfeiting at the same time their Royal Character, by the Breach of the essential Conditions of their regal Power, which are to act according to the antient Customs and standing Laws of the Nation. If we are happy upon this Account, that our Kings can neither Suspend nor Destroy our Laws, we are no less to be envy'd that our Purfes are secur'd from the encroachments of an aspiring Covetousness, by that Part of this Act, which tells us, that levying Money for or to the Use of the Crown, by pretence of Prerogative, without Grant of Parliament for longer time or in other manner, than the same is or shall be Granted, is illegal. This Privilege has made our Government to be envy'd by all the Neighbour-Nations, and the Happiest that can be imagin'd; for there being no surer way for a Prince to become Absolute, Arbitrary, and a Tyrant, than to impoverish his Subjects to that degree of Want and Misery, as may force them for Subsistence to comply with all his Desires, whether just or unjust: He is disabled by this Act from doing them any Mischief that way; I mean, by squeezing the Blood out of their Veins, *i. e.* the Money out of their Pockets, for any Design he might have of ruling over them as meer Slaves (*Ibid. Pag. 191, 192, 213, 214.*) I might quote what this Author saith of disbanding Armies in time of Peace, unless the Parliament allows them to be kept on foot, and the settling the Succession of the *British* Crown upon *Protestant* Princes; but fearing lest I should be too prolix, I refer the Reader to the 11th Volume of State-Tracts.

(1) *Edward.*

In short, our King's Royal Majesty is always like itself, Constant and the same; which having regard to the Virtue, Stock, Wealth, and Substance

Substance of any Man (whereby he may with his Counsel or Service profit the Commonwealth) may in every place freely (and without restraint) give and bestow Dignities and Honours, sometimes chusing more Barons than one out of the same Family (the Custom of the Succession of the former and more antient Baron being still kept intire and not at all broken); as *Edward* (1) the 6th wisely did in the Family of the *Willoughbies* (2), which Family (that for brevity sake I should not reckon up more) besides the most antient Barony of the *Willoughbies* of *Eresby*, produc'd another Barony also of *Parham*.

Our

(1) *Edward the 6th.*] The only Son of King *Henry 8*, by his Wife *Jane Seymour*, who lost her own Life to preserve her Son's, succeeded him. He was Crown'd in the 11th Year of his Age. *Edward Seymour* Duke of *Somerset* his Uncle, was made Protector, and his other Uncle *Thomas*, Lord Admiral; but Dissentions arising between them by the idle Quarrels of their Wives about Preheminence, were the Ruin of them both. For their Enemies taking hold of this Difference, contriv'd at length to bring the first to the Block for Treason, and the second for Felony. This young King purg'd in a great measure the Church from *Papish* Superstition, and much advanc'd the Reformation, but Dy'd in the 17th Year of his Age, after a Reign of 6 Years and 5 Months.

(2) *Willoughbies.*] Of this Right Honourable and Antient Family, besides the present Lord *Parham*, were two

others; viz. *Eresby* and *Brook*, both Famous for their own, and Posterities noble Atchievements. The first of the Branch of *Parham*, was Sir *William Willoughby* Knight, Son and Heir to *Christopher Willoughby* of *Eresby*, Created Lord *Willoughby* of *Parham* in *Com. Suff.* (a younger Son to *Christopher* Lord *Willoughby* of *Eresby*, Created Lord *Willoughby*, 1 *Edward* the 6th.) He died in 1569 and was succeeded in his Land and Honour by his Son *Charles*; he by his Son *William*, and this by his eldest Son *Francis*, who leaving no Issue-Male, was succeeded in his Honours by *William* his Brother, who Married *Anne*, Daughter of Sir *William Cary* Knight, by whom he had Issue 7 Sons; *George*, his Son and Successor in that Honour; *Henry* and *William*, who Died unmarried; *John*, yet living; *James* and *Cary* dead; and *Charles*; and 5 Daughters, *Frances* Married to Sir *John Harper* of *Swarkeston* in *Com. Derby.* Knight; *Elizabeth*, dy'd unmarried; *Anne*, Wedded to Sir *John Harper* of *Calke* in *Com. Derby.* Baronet; *Mary*, dy'd unmarried, and *Catherine*. *George*, Lord *Willoughby*, Married *Elizabeth*, Daughter and Co-heir to *Francis Fienes* alias *Clinton* Esq; by whom he had Issue, *John* now Lord *Willoughby*. (*Collier's Great Historical &c. Dict.*)

Our Kings therefore we acknowledge to be the Fountains of Political Nobility, to whom we may gratefully refer all the Degrees of Honours and Dignities; and we have just Cause to rejoyce on the behalf of our Nobility of *Britain*, who have always had Kings themselves Authors, Patrons, Governors, and Defenders thereof; that when Lands, Fees, and Possessions, subject to Covenants or Agreements, are still tofs'd with the storms of the Judicial Courts, and of the Common Law, it is only to the Kings

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Kings themselves beholden, and resteth upon Heroical Orders, and Institutions proper and familiar to itself. So that,

*Per Titulos Numerentur Avi, semperq; renata
Nobilitate virent, & Prolem fata sequantur
Continuum propria servantia lege tenorem.*

And the Noblemen for deciding of Suits concerning their Honours, and for giving to every Man, that which of Right belongeth to his Fame and Dignity, have their Tribunal or proper Martial Court, which they are wont to call the Court of Chivalry; of which, when I shall come to the Order of Knighthood, I shall be a little more particular.

CHAP. VII.

Of Noblemen of the Lesser Sort.

THE Lesser Noblemen are divided into three Sorts or Ranks, *viz.* Knights, Esquires, and those we call only by the Name of Gentlemen.

Knights (I) call'd by our *English Lawyers*
Milites, are all one with the *Saxon Cnute*, and
 I i 4 signifying

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Signifying with us Persons bearing Arms, who for their Vertues, and special Martial Prowess, are by the King, or one having the King's Authority, singled from the ordinary Sort of Gentlemen, and rais'd to a higher Step of Dignity. They, amongst all Nations, took their Names from Horses, because in antient Times they serv'd in the Wars on Horseback.

The

(1) *Knights.*] Let's see what *Verstegan* (that great Reformer of lost Antiquity) says of this Title, Knight; this Title of Right Worshipful Dignity (saith he) was heretofore of our Ancestors written *Cniht*; and both in the high and low *Germany* by the name of *Knight* (which a little they vary in the Orthography) is understood a Servant; and I find that *Leorning Cniht* was in our antient Language, a Disciple; and in the *Netherlands* a *Lear-Kneght*, is the same that an Apprentice is in *French*, that is to say a Learner. A Knight as we understand it, is in the Modern *Teutonick* or *Duytsch* Tongue, *Rider*, which is indeed all one in *English* with *Ryder*, and answereth unto the *French* Word *Chevalier*, which may be *English'd* an Horseman, and so agreeth with *Eques* in *Latin*; by all which it may seem Strange, how our Name of Knight, being with us in such esteem of Worship, should in the Etymology thereof, appear no more than it doth. To resolve which Difficulty, I can judge no other, having no Proof or pregnant Reason otherwise to induce me, but that the Name of Knight, must have begun to be a Name of Honour among our Ancestors, in such as were admitted for their Merits to be Knights to the King, that is to be his own Servants, or in some sort his Officers or Retainers, and to ride with him, and therefore it should seem, that some of them, if not all, were antiently call'd *Knight-Ryders*, and it may be of them the Street in *London*, call'd *Knights-Rider*

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Rider Street, did first take that Name, as being the Place where their Residence or Meeting might be kept, or per-adventure some like *Knighen-geld*, or *Confrery*, as King *Edgar* establiſh'd without *Ealdgate* of *London*, for 13 Knights or Soldiers of good Desert to him and the Realm. And albeit a Servant in *Germany* is (as is aforesaid) call'd a *Knight* or *Kneght*, yet seemeth it not antiently to have been the most common and usual Name for a Servant: for that such had, and yet have, the Name of *Diener*, as also other Names. A Soldier in *Germany* is call'd a *Lands Kneght*, which is an Argument that the Name of *Knight* was wont there to be of more esteem than ordinary for every Servant. Moreover, we find that the Name of *Knight* is not now of us only us'd to stand for *Eques Auratus* (a Knight Batchelour, or of the Spur, so call'd *Temp. Ed. 3.*) which is ordinarily a *Knight*, but is also born in regard of bearing Authority or Office, as we see in our Knights of the Shires, who yet are not properly *Knights*, as the Name of *Knight* is otherwise understood.

(1) *Camb.*

The *Romans* call'd them *Equites*; the *Italians* term'd them *Cavallieri*; the *French*, *Chevaliers*; the *Germans*, *Reyters*; the *Spaniards*, *Gavallaros*; the *Welch*, *Marchog*, &c. and all with respect to Riding. *Cambden* (1) says, they are call'd Knights only by the *English*, a Word in the antient *English*, and *German* Tongue, signifying promiscuously Servant, or one that does Service, and a young Man. Our Common Lawyer *Bracton* mentions the *Rad-Cnighetes* (2), i. e. serving Horsemen, who held Lands upon this Condition, that they should furnish their Lord with Horses; from whence
by

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by shortning the Name (the *English* loving Contractions) *Cambden* was perswaded that Knights remain now in use with us; but for what reason the Laws of our Country, and all the Writers since the *Norman* Conquest should term them in *Latin*, *Milites* the same Historian (3) did not well apprehend. Not but that he knew well enough, that in the Declension of the *Roman* Empire, the Name of *Milites* was transferr'd to such as were always attending upon the King's Person, and had the more considerable Employments in the King's Retinue,

But

(1) *Camb. Brit. Pag. 178. Fol. Edit. ult.*

(2) *Rad-Knights.*] *Selden* saith, we have *Rad-Knights* also in *Bracton* (*de acquir. rer. Dom. Lib. 2. Cap. 35. Sect. 6.*) for Tenants that held by the Service of Riding from one Manor to another with their Lord, which was also adjudg'd by some under *Henry* the 3^d to be such a Knight-Service (*eod. Cap. 16. Sect. 5.*) that it drew Ward and Marriage to it also.

(3) *Camb. Brit. Pag. 178.*

Fealty.]

But according to the best of his Knowledge of the Matter, he concludes, that the first who were so call'd amongst us, were they who held
beneficiary

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beneficiary Lands, or in Fee, for their Service in the Wars. For those Fees were call'd Military, and they who in other Places are term'd *Feudatories*, were with us styl'd *Milites*, Soldiers (as the *Milites* or Soldiers of the King, of the Arch-bishop of *Canterbury*, of Earl Roger, &c.) because they had Lands bestow'd upon them by these Persons, with this Condition, that they should Fight for them, and pay them Fealty (1), and Homage (2), whereas others who Serv'd in the Wars for so much in Money, were call'd *Solidarij* and *Servientes*. However these *Milites* or *Equites* (call them which you will) are of four Sorts with us; viz. those of the Order of the Garter (the most Honourable of all) the Bannerets, those of the *Bath*, and such whom we call in *English* simply Knights, and in *Latin* *Equites Aurati* (3) or *Milites* without any Addition.

Knights

(1) Fealty.] *Fidelitas ea presertim qua vassallus Domino obligatur, aliunde non repetam quam a Germanis; dici enim videtur vassallus a Germanico veteri Gessel, i. e. Comes simpliciter, vel Comes qui mercede servit; Et hujusmodi Comites Domino pagendi (quem tacitus principem vocat) multo Obsequio navasse operam, idem Author ostendit. quin Et illum (inquit) defendere, tueri, sua quoque fortia facta Gloria ejus Assignare, precipuum Sacramentum est. Nominis igitur Et Sacramenti vassallorum seu Fidelium, Originem habemus: Nam ego illa Romanorum Sacramenta*

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cramenta hic non attraho ; sed videamus quid in recentioribus ævis fidelitas sonuit.

Fidelitas est Fidei, Obsequij, & servitij Ligamen, quo generaliter subditus Regi, Particulariter vassallus Domino astringitur. Debetur quidem non solum jure positivo, sed & Gentium, & quodammodo Naturæ. Ad hoc tamen præstandum, solenne exigitur juramentum, quod Fidelitatis appellatur, significaturq; sub nudo Fidelitatis Nomine ipsum Fidelitatis iusjurandum ; ut 2. Feud Tit. 4. de utraq; specie (scilicet generali & particulari) late inferius patebit : Fidelitas autem particularis apud Anglos individue comitatur omnes tenuras, etiam demissionis ad brevissimum tempus ; & quamvis nunc dierum parcius exigatur, relaxari tamen nullo modo potest, sine tenura interitu ; apud externos quoq; licet remittatur (ut diximus) e lege Feudali ; infidelitatis nihilominus pena vassallum delinquentem manet : Adeo ut remitti potius videtur Sacramenti præstatio, quam vinculi nodus dissipari (Spelm. Gloss.)

(2) Homage.] (Homagium, Hominium, Hominatus, Hominiscum, Hominiscatus.) Lego hæc omnia ; Hominium antiquius ; Homagium frequentius : Ducta ab Homo pro vassallo, non ut Curiosi quidam volunt, a Græc 'Ουδω juro ; in Homagio enim præstando non jurat vassallus, sed in Fidelitate, ut supra in ea voce Ostendimus. Græce etiam ab ipso Latino, 'Ουανζιον dicitur ; Latine vero, quasi Hominis agium ; nam Chiens profitetur se Domini sui Hominem (i.e. vassallum) acturum. Qua autem Homo & Homagium verba sunt Foedalia & in Fundamentis juris illius, Copiose de his passim, & jus aliud, & ejusdem consulti ; præsertim Hotomannus & lexica, ad quos te ideo relegamus, pauca tamen ad rem Historicam pertinentia subnexuri.

Homagium solennius arctius, & humiliter servitij genus est, quod liber Homo tenura vel Beneficij ratione, Domino suo præstiterit ; prisco Romano civi incognitum, sed grassantibus per Imperium Barbaris, introductum, & Feudali militi, quem Hominem vocant, impositum (Id. ib.)

(3) Equites Aurati.] Ad distinguendum equitem ritui Honorario institutum, ab inhonorario istiusmodi, bene convenit Aurati Additio (Spelm. Gloss.)

Tunc

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Tunc enim (Cambdenus de Creatione militum loquitur) ad Ornamentum præter Gladium, Cingulum & Calcaria Aurata acceſſerant, unde milites & equites Aurati hodie vocantur. (Britannia.)

(1) Equites

Knights of the Garter, *Equites Garterij* (1) or *Periſcelidis* (by far the moſt Honourable of all Orders) were firſt created by King (2) *Edward* the 3d (the moſt invincible King of *England* and *France*, a Prince principally endow'd with all manner of Piety, Magnanimity and Wiſdom) in the 23d Year (3) of his Reign, after he had obtain'd many notable Victories over the *French* and *Scots*; who for furniſhing of this Honourable Order, made a Choice out of his own Realm and all Chriſtendom, of the beſt and moſt excellently renown'd Knights in Virtue and Honour, beſtowing this Dignity upon them, and giving them a blue Garter (but commonly call'd the Garter) deck'd with Gold, Pearl, and precious Stones, and a Buckle of Gold to wear dayly upon the Left Leg only, a Kirtle, Crown, Cloke, Chaperon, a Collar, and other Stately and Magnificent Apparel, Exquiſite and Heroical, to wear at high Feaſts, as to ſo High and Princely an Order was meet; of which, he and his Succeſſors, Kings of *England* were Ordain'd Sovereigns, and the reſt Fellows and Brethren

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Brethren, to the Number of 26, who being solemnly Sworn, and binding themselves together with a Bond of mutual and perpetual Friendship, for the Defence of the Honour and Dignity of their College and Fellowship, refuse not to undergo any Danger, no not Death itself.

And

(1) *Equites Garterij.*] *A Gallo-Angl. Gartier, subligaculum Cruris; Budeo Periscelis; Vox jam inde in usu, a quo Edouardus 3 multis Victoriis insignis, Equestrem Ordinem sub Gartierij symbolo instituit, ascriptis e Militari Ordine 24 Fortissimis Heroibus, sui ipsius prefectura illustratis. (Spelm. Glos.)*

(2) *Edward the 3d.*] Altho' the Original of the Order of the Garter be attributed, and justly too, to King Edward the 3d, yet a purpose of making it is suppos'd much antienter, in an Author that wrote under Henry the 8th. The Book (MS.) Intitul'd, *Institutio Clarissimi Ordinis Militaris a Pranobili subligaculo Nuncupati*. He says, that Richard the 1st purpos'd it in the Holy Wars; what antient Testimony he had to justify this is not known, (*Sell. Tit. Hon.*)

(3) *23d Year.*] Tho' it be clear enough that Edward the 3d was the first Author of the most Noble and Honourable Order of the Garter, and that he to the Honour of Almighty God, and of the Blessed and Immaculate Virgin Mary, and the Blessed Martyr St. George, Patron of the right noble Realm of England, and of St. Edward King and Confessor, to the Exaltation of the Holy Faith Catholick, Ordain'd, Establish'd, Created, and Founded it (as the Words are in the Statutes, MS. of the Order of the Time of King Henry the 8th.) Yet the Time and Occasion of the Institution is not so clear. Some say the
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Time was after his Wars successfully had against the French, and that about 1350, or 24 of his Reign, and that the Garter was taken for the Ensign of it, because a Garter was the Word of the Field in the Battle. (*Leland. Cambden.*)

And it seems, they the rather cast it about that Time, because they find, that at the Battle of *Calis* in 1349, the King himself with his Sword drawn in the Field, publicly in the Army made his Invocations of St. *Edward* and St. *George* together, as *Walsingham* tells us. --- Others refer it to the Lady *Joan*, Countess of *Kent* and *Salisbury* her Garter, that falling from her Leg in a Dance, was taken up by the King, who much affected her (and as they say) wore it too on his own Leg, and whether upon the Queen's Jealousie, or some of the Lords merrily observing it, told them all openly, *Hony soit qui maly pense* (according to that of *Philip* upon Sight of the Regiment of Lovers slain at the Battle of *Charonza*, *Ill betide them that think any Ill of these Men*) and that shortly the Garter should be most highly honour'd. Some also have the like Story of the Queen's Garter. *Hac vulgus perhibet* (saith *Cambden*, while he briefly touches the Opinions concerning it.) *neo vilis sane hac videatur Originus, cum, ut ait Ille, Nobilitas sub amore jacet.* And to the same Purpose, before him, *Polydore Virgil.* In this uncertainty of the Occasion, our common Stories give us but little Light; nor know I whence wholly to clear it. But for the Time it seems plain, rather that it was in the Year 1344, or 18 of *Edward* the 2d. For in that Year, says *Froissard* expressly (*Vol. 1. Chap. 101.*) began the *Confratre de Saint George, or de les Chivaliers de la bleu Jartier*, as he calls it, at *Windfor*. And tho' he mis in the Number of them (for he makes that 40, as his Copies are) yet being far easier for him to know the Time, which fell in his own Age, and could not but be of a most Publick Fame, than the Number (which either by Misrelation might come false to us from him) we have yet Reason enough to credit him for the Institution; and so much the rather also, because we know by others of our own Country (*Thom. de Walsingham sub Anno. 1344.*) that in the self same Year, a solemn and great Meeting was appointed by the King at *Windfor* Castle for the fet-

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ting up of his Round-Table there, which made the *French* King do the like, to prevent, as far as he might, the Concourse of Knights from Foreign Parts thither, and to draw them into *France*. And it seems, that out of the Plot and Purpose of this Round-Table at *Windsor*, erected in the same Year wherein the Order of the New Garter was instituted, and appointed to be celebrated on *St. George's Day* of the same Year, as we may collect out of *Froissart* also; the Order it self had chief Part at least of its Original. And the other Traditions touching the Garter of the Queen, or of the Countess of *Kent* and *Salisbury*, may well stand with this thus far, that the Word, and the Use of the Garter began as the Traditions suppose, but that the Order was rais'd chiefly out of this of the Round-Table of that Time, as out of a Seminary. For the Round-Table was in special Use in those Ages for the drawing together of the braver Knights and Ladies. (*Selden's Tit. Hon.*)

(1) *St.*

And being once yearly attir'd in the Robes and Ornaments of their Order, meet together upon the 23d Day of *April*, a Day dedicated to *St. George* (1). This honourable Society being a College or Corporation, hath a Common Seal belonging to it, and consists not only of a Sovereign Guardian (which is the King of *England*) who always governs this Order by himself or his Deputy, and of 26 Companions, call'd *Knights of the Garter*; but of Secular Canons that be Priests, or must be within one Year after their Admission, 13 Vicars, Priests also, and 26 Poor Knights, who have no other Sustenance, or Means of Living, than the Allowance of
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this House, which is given them in Respect of their daily Prayer to the Honour of God and *St. George*. There be also certain Officers belonging to this Order, *viz.* The Prelate of the Garter (which Office is inherent to the Bishop of *Winchester* for the Time being) the Chancellor of the Garter, the Register (who is always Dean of *Windsor*) the Principal King at Arms call'd Garter, whose chief Business is to manage and marshal their Solemnities at their yearly Feasts, and Installations: *Lastly*, The Usher of the Garter, who is also the Usher of the *Black Rod*.

The

(1) *St. George*] The Saint of this Order was, and is *St. George*, the great Martyr, and so reputed the Patron Saint of *England*, as *St. Dennis* is of *France*; *St. Andrew* of *Scotland*; *St. James* of *Spain*, and the like; and the Order it self is styl'd oft times the Order of *St. George*, as well as of the Garter. (*Stat. Ord. Gart. sub Hen. 8th, &c.*) At the Institution of the Order, the Chappel at *Windsor* was consecrated to his Name; and his Day then appointed for the Annual Solemnity of the Knights: He suffer'd Martyrdom (as it is said) in the 9th Persecution under *Dioclesian*. Some say the Time was the 290th Year after our Saviour, or the 7th of *Dioclesian*. (*Vet. Auctor. apud Baron. in Martyrol. April 23d.*) and that the Place where he suffer'd was *Rama* or *Ramel* in *Palastine*; his Name soon grew very famous in both the *Eastern* and *Western* Churches and Fraternities, and frequent Invocations, especially in the Time of Wars, have been made to him. Some old Rituals or Books of ordinary Service

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of the *Greek Church* (where they have also other Saints of the same Christian Name, but all distinguish'd plainly enough from this.) He is suppos'd (as in other Testimonies) to have been of *Cappadocia*, of a good Family, and a very famous Commander in the Wars under *Dioclesian*, but that when he suffer'd Martyrdom, he was a Count. It is said there also, he was beheaded, and on the 23d Day of *April*.

Very many Forms of Invocations of him they have there also, wherein, besides the usual Attributes that have Relation to War, given to Martyrs (for they are all together call'd *Candidatus Exercitus*, as in the *Te Deum*, in the *Greek Rituals*; and the noble Army of Martyrs in our Liturgy) he hath many, that sometimes expressly, sometimes with Allusion peculiarly denote his military Quality and Command, and his being the great Patron of Soldiers. As, *O St. George, the Soldier of the great King*; and *Hail, thou great Commander in chief, of them that, and of the Army of Martyrs*; a *Succour and Defence of all that believe*, Most Victorious *St. George*. And he is call'd there, the most singular and victorious Champion of Christ, and the most excellent Patron or Leader, and such like. And in their Invocations, he is sometimes desir'd to make Intercession, as well for the Peace of the World, as for the Salvation of their Souls. I omit the many others of this Kind, and add only this one whole Prayer that they have to him; especially because of that Title of *Tropaophorus* in it. *Thou that art the Redeemer of Captives, the Protector of the Poor, the Physician of the Weak, the Champion of Kings, Victorious and Great Martyr St. George, make Intercession with our Lord Christ for the Salvation of our Souls.*

This Attribute of *Tropaophorus*, long since, became with them as his peculiar Name. Some others have the Substance of it given them sometimes in the Commemoration of them; as *Artemius* is call'd, he that carried away the Victory or had the Trophies of his Enemies, and the like others; but none besides him hath it as a peculiar Name; nor do they of that Church, where they place the Title of his Day in their Rituals, name him without it. In their *Anthologion*, the Rubrick for the Liturgy of his Day, which is the same as with us the 23d of *April*, is of the holy,

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holy, famous, great Martyr St. *George* the Victorious, or *Tropeophorus*. The same Name is there given him in the Rubrick of his Commemoration, as also it is in their great *Menieon*. So is it in the *Apostolo Evangela* at the End of their *Euchologium*, which is of such Nature as our Book of Common Prayer, in their *Menologium* inserted in their *Horologium*, or the Office for their Monastery; and in *Damascenus Studites*, *Maximus Margurinus*, and the rest of them that write his Life; and whereas they have many Saints-days in the same Month of *April*, (divers of them being eminent in that Church) and Commemorations belonging to them, besides our St. *George*, of all which they have special Memory in the *April* of their larger Rituals; yet in their more contracted Rituals, where they reckon but some, and the most eminent of them only, this St. *George* hath ever a principal Place, and sometimes the sole Place, which is a clear Testimony of their high and singular Estimation of him. Besides the Rituals, divers observable, yet not very obvious Testimonies of Him are in the Writers of the *Eastern* Parts. Erections of Churches were frequent to him there; and at *Ramel* especially, famous for his Shrine and Martyrdom; a Bishoprick was about 500 Years past instituted and consecrated to him. And *Justinian* (that was Emperor but about 240 Years after St. *George*'s Passion) built a Temple to him in *Armenia*, where it is likely, he receiv'd much of his Fame as in a Neighbouring Country to *Cappadocia*. So expressly saith *Procopius* that liv'd under *Justinian*. *Et Templum* (saith he, *Lib. 3. De Edificijs Justiniani*) *extruxit Georgio Martyri in Byzanis*. *Cedrenus* speaking of the Persecution under *Dionysian*, says (*Compend. Hist. Pag. 218.*) that many were crown'd with Martyrdom, and among them *Peter* of *Alexandria*, and *Anthimus* of *Nicodemia*, and *Procopius*, and *George* the famous Martyrs. The same Author tells us also (*Ibid. Pag. 556, and Curopulat. Hist. Fo. 77.*) that the Emperor *Joannes Tzinnisces* (he began in 970) after his Victory against the *Russians*, which was had on St. *George*'s Day, presently made a publick sacred Acknowledgment of it to this Martyr: *Joannes Euchaitensis* also for Bishop of *Euchaita* under the Emperor *Constantine Monomachus*, who built a Monastery in the Place they

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call'd *Mangana* to the Honour of St. *George*, into which he and the succeeding Emperors us'd to make a solemn Procession yearly on St. *George's* Day, or the 23d of *April*) in a sacred Poem encouraging the Emperor gloriously to entertain our Saviour in his Churches, advises him also to join in the Entertainment those that love him, and the Blessed Virgin his Mother, together with the Saint that fights for him, and is as his General, and hath his Name from Trophies, *τεγπαία*, or Victory; by which Words he means doubtless *Tropaophorus*, the proper Attribute among their Saints to St. *George*. This was done by this Bishop, about the Year 1040. in *Jambick* Verse. *Joannes Cantacuzenus* (he that was Emperor) using some Arguments taken from the Martyrs of the Christian Church, both in Behalf of the Christians and against the *Mahumedans* mentions Martyrs in general, but takes St. *George* for his particular Example. The Martyr of Christ that is honoured by us Christians (saith he) St. *George*, (who is also honoured by the *Mussulmen* themselves, and called by them *Cheter Eliaz*) being tortur'd and tempted by the Wicked, and by Idolaters, that he might be brought to deny Christ, and worship and adore their Gods, chose rather to have undergone a Thousand Deaths, and a thousand Tortures for the Name of Christ, than at all to renounce the Faith that he had in him. And *Cantacuzenus* goes on with some more Particulars of the History of his Martyrdom in their Church, and such an one as was enough in that Kind of Argument, to make up his Apology for the Christians against the *Mussulmans*. In *Venice* also the chief Church for the *Grecians* is dedicated to St. *George's* Name. *Emanuel Malaxus* remembers it with the Title of Great St. *George*, where he speaks of the Trouble wherein the *Grecians* there were, when *Arsenius* brought Pope *Alexander* the 6th's Letters against them to the Duke of *Venice*, somewhat more than 100 Years past; his Words are, There fell out a great Confusion and Discontent in the Church of the *Grecians*, which is Great St. *George's*. But also there is among them of the *Greek* Church, a Testimony of an Order of Religious Knighthood under the Title of this Martyr, which continues to this Day, from no other Original than from *Constantine* the Great, if we may believe the Pretences that the Sovereigns of the Order themselves make to it.

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mean that Order, whereof those of the Imperial Family of the *Comneni* claim at this Day to be Sovereigns, and accordingly do make their *Constantiniani Cavalieri* (as they call them) under the Rule of *St. Basil*, and the Title of *St. George* with the red Cross, and those Words, *In hoc signo vince*, or *ἐν τῷ σὺν* written in Gold upon it. This they say was begun by *Constantine* the Great, and afterwards encreas'd by *Heraclius* upon his Victory had against *Cosroes*.

To these may be added other Testimonies learned from the Eastern Parts, tho' delivered by Writers of the West, as that of *Justinian's* erecting a Temple to *St. George* at *Lydda* or *Diospolis*, some three Miles distant from *Rama* or *Ramel* in *Palestine* in the Portion of the Tribe of *Ephraim* (by Reason of which Nearness, and for that the Bishoprick there instituted was call'd sometimes of *Lydda*, and sometimes of *Ramel*, as well the one Place as the other, has been mention'd by Writers for his Martyrdom) the Particulars of his Statue and Miracles largely related from *Arculfus*, who learn'd them in the East from *Adamannus* a Scot, that wrote about 900 Years since, (*De Situ Terra Sancta. Lib. 3. Cap. 4.*) and Publish'd at *Ingoldstat* by *Getherus* 1619, as also that of *Johannes Cotovicus* (*Itenerar. Hierosolymit. Lib. 2. Pag. 137.*) speaking of *Lydda*. Mox (saith he) *Urbem antiquissimam Diospolim olim nuncupatam, distantem a Rama tria millia passuum eminus conspeximus. Hec Divi Georgii Martyrio ac Tumulo, & imprimis Petri Apostoli prædicatione & miraculo celebris est, &c.* That Church is now, he says, us'd partly for a *Meschite* by the *Turks*, and partly by some *Greek Monks*. And it is held in singular Reverence as well by the *Mahumedans* as *Christians*, for all of them, that come back from their Pilgrimage to *Mecha*, through *Palestine* *Devotionis ergo*, (saith *Cotovicus*) *adire illud baud negligunt, &c.* And he tells us, That the *Mahumedans* take him also to be *sua secta Protector eximius*, and so Honour him, that when they sometimes destroy other Images of Saints in the Christian Churches, they religiously abstain from *St. George's*; touching which he hath an Example in a Monastery of *Minorite Friars* in *Arnica*, (a Town of *Cyprus*) where all the other Images being destroy'd by them, only *St. George's* he saw sitting on Horseback with

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a Tulipant on his Head, and left untouch't. Thus much for the Testimonies of the Eastern Parts concerning him.

I come now to a short View of such as are of him in the Western. For the Western Church, you may remember what is at large of him in those who write, *Ex Professo*, the Lives of the Saints; they are obvious, and therefore we omit them here. The antientest Martyrologies have him also on the 23d of *April*, with *Natalis Sancti Georgii Martyris cujus Illustre Martyrium inter Coronas Martyrum Ecclesia Dei veneratur*. Pope Gregory the Great, that liv'd about 300 Years after the supposed Time of his Martyrdom, repaired an antient Church dedicated to his Memory. (*Gregor. Lib. 4 Indict. 4. Epist. 68*). And *Sidonius* Bishop of *Mentz*, in the Time of *Justinian's* Reign, erected a Church to this Saint, where the Reliques and Memory thereof remain to this Day. Several antient, and as yet not published Testimonies of his Life are mention'd by *Baronius*. And in the Office of the Church of *Rome* for that Day usually, which they keep as the *Greek* Church, on the 23d of *April*, besides the Epistle, Gospel, and what else might be common to other Saints, they have these also with his Name in them, *Deus qui nos Beati Georgii Martyris hic meritis & intercessione latificas, &c.* And after the Offering, *Munera Domine oblata Sanctifica & intercedente Beato Martyre tuo, &c.* And for the *Post Communio*, *Supplices te Rogamus Omnipotens Deus, ut quos tuis reficis Sacramentis, intercedente Beato Georgio Martyre tuo, &c.* And whereas in *Rome* every Month hath certain special Feast-Days, which are no Court-Days in the Capitol, (as *Corpus Christi-Day*, *All-Saints*, *Midsummer-Day*, and *Candlemas-Day* with us at *Westminster*.) In *April* no Saints Days but of *St. Mark* and *St. George* are appointed to be honoured, so as we see in the Laws of that City, (*Statuta Rome, Lib. 1. Cap. 68.*) Neither is it to be omitted here, that in the antient *Ordo Romanus*, (which is a Ceremonial or Ritual for the Consecration of Bishops, Abbots, Nuns, &c. there is an Order *ad armandum Ecclesie Defensorem vel alium Militem*; and after divers Prayers proper to the giving of that Dignity of Knighthood, one follows in these Words presently after the Shield given; *Domine Deus,*

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Deus, qui conteris bella, & Adjutor & Protector es omnium in te sperantium, respice propitius Invocationem nostram, & per merita Sanctorum Martyrum tuorum, & Militum, Mauriti, Sebastiani, Georgii, presta huic Viro Victoriā de Hostibus suis, &c. But as it happens frequently in the Reports of what is at all wonderful, (such are those of the Sufferings of the Martyrs) so hath it in that of St. George; that so many incredible Circumstances are added, and so mix'd with his Martyrdom, that the Relation of him hath suffered too much Blemish by such Mixtures. Whence it was that Pope *Gelasius* the 1st in 494. in his Synod at *Rome*, made a large Declaration of what Writings were to be admitted: Besides the Holy Scriptures, He reckoned up many; as also the *Gesta Sanctorum Martyrum, &c.* For Example of such Saints Lives as were so mis-written, he brings those of St. *Quiricus*, and St. *Julitta*, and of St. *George*, but so, that whereas they are named with *Cujusdam* prefix'd to them, St. *George*, as a more eminent and known Saint in those Times, is sever'd from them by *sicut Georgii*. And we see in the sixth General Council of *Constantinople*, a special Canon is made against the Admission of such Lives of the Holy Martyrs, as were written by Hereticks, as they are there call'd. But out of the several Acts of Martyrs and their Lives written, such Choice was afterwards made, that some were, and are to this Day read in the Church of *Rome* (*Baron. Annal. Tom. 2. sub finem Anni 290*). And *Baronius* thinks also, that he found in an antient *MS.* in the *Vatican*, those very corrupted Acts of St. *George*, which were noted in that Synod of *Rome* by *Gelasius*, for which he professes, he made a most painful Search: But among all those that they have in the *Vatican*, *Baronius* thinks that one to be nearest Truth, which was wont to be read in some Churches, and hath in it the Year of the Martyrdom, and only the Beating, the Wheel, the Frying-pan, and the Beheading for his Sufferings. The many Dedications of Churches and Societies to him in the later Ages, and the mention of his Relicks, of his frequent Apparitions, and the like, we omit, being such as cannot add any valuable Honour here to his Name, beyond that which those antient Testimonies have given him.

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How he came to be the Patron Saint of the *English*, we may easier guess at the Reason why his Name was chosen by them, than of the Time when it was chosen. It is nothing strange, that so Military a Nation should chuse the Name of such a Soldier Saint, and of one so known by the Name of *Tropeophorus* or Victorious, as is already shew'd, being also of far greater Eminency in both Churches, than either *St. Sabas* or *St. Sebastian*, *St. Maurice*, or any of the rest that were Soldiers also. And in the Articles prepared by *Richard Scroop*, Archbishop of *York*, against *Henry* the 4th, he is called *St. George*, Martyr and Knight, Special Protector and Defender of the Realm of *England*, &c. So toward the End of *Edward* the 3d also, that is, in his 44th Year in the Constitutions of a Guild erected to him by some of the West-street in *Chichester*, he is stil'd *Anglorum Protector* & *Patronus*. But for the first and exact Time or Age, altho' I have not observ'd any warrantable Story either of Invocation of his Name, or other peculiar Honour done to him by the *English*, as drawing him to their Part, before *Edward* the 3d; yet it is very likely, that he was long before taken by our Nation, as their Patron Saint, and that perhaps in the Time of the Holy Wars, when our Ancestors had so frequent Access, by the Assistance of their Swords to those Eastern Parts; where he was ever since his Martyrdom, and to this Day is so magnified. And our King *Richard* the First's repairing his Temple at *Lydda*, is before remembred by *Cotonicus*. But I should have the sooner guessed, that his Name had been first taken to us, under *Edward* the 3d, if I had not seen that, even in a most Antient Martyrology, (a MS. written in *Saxon* or the ancient *English* of the Time before the *Normans*) peculiarly belonging to this Kingdom, he is the only Saint mentioned for the 23d of *April*, tho' both in the *Greek* and *Latin* Martyrologies there be divers more besides him on that Day; unless there had been some singular Honour given him from this Nation, why should his Name alone be so honoured with it? I determine nothing here, I see not Light enough. But that Martyrology I mention'd, (*Martyrolog. Saxon in Bibliotheca Benedictina apud Cantabrigienses volumen est ibi, 26*) which I have not room here to infer, is no slight Testimony, that he was in great

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Estimation among the *English*, even in the *Saxon* Times. After that the Order was instituted, an Addition of Honour was also to his Feast-Day, which is the 23d of *April*. For whereas anciently it was only *Minus duplex*, it was first in a Convocation of the first of *Henry* the 4th held under Archbishop *Arundel*, desir'd, *Quod Festum Sancti Georgii Martyris, &c. instituat per totam Angliam festive ac solenniter feriandum & colendum sicut Cetera Nationes suorum Patronorum Festa colunt*. But this was desir'd among divers other Things (express'd in a Petition deliver'd by one *John Maidenbeth* in the Name of all the Clergy of the Province of *Canterbury* to the Archbishop, and the rest of the Bishops), none of which at that Time had any further Proceeding. But afterwards, upon the Instance of King *Henry* the 5th preparing for *France*, his Day was made *Festum duplex admodum Majoris duplicis* by Canon of Convocation of the Province of *Canterbury*, held in *November* 1415; for to that Time doth *Walsingham* refer. Before this, by a Canon under Archbishop *Islep* in the 37th Year of *Edward* the 3d, the Holy Days were confin'd to a narrow Number, and to but a few more, than we now observe, excepting the Days of Dedication of Churches, and the Patron Saints of them; to which Liberty *Linwood*, by Reason of that Canon of *Chicheley's* Time, gives Exception, *excipe Festum Sancti Georgii*, which in that of *Islep* was not mention'd, (*Linw. ad Tit. de Feriis ex Scripturis*), and Liberty was given to work on any other Saint's Day. After this, as before also in the Kalendaries of the *English* Church, *St. George's* Day was noted with *Duplex*; yet so, that it stood, it seems, only for *Minus Duplex*, or *Inferius Duplex* still, notwithstanding this Canon of the Convocation. For in the Ordinal, *Pica* or *Pic* of the Church at *Salisbury*, which is called also *Directorium Sacerdotum*, carefully rectified and published in 1508. or in the Beginning of *Henry* the 8th, by one Mr. Clerk, Chanter of *King's-College* in *Cambridge*, by the Direction of that University, (a Book, by which Priests were taught how and when to celebrate all Feasts of the Year) this of *St. George* occurs frequently with *Minus Duplex* added to it: But yet it was not observed, it seems, otherwise than those, that were the *Inferiora Duplicia*, (however the Convocation had made

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made a Canon to the Contrary) as appears by a Table *De Festorum Divisione*, printed at the End of the Psalter, according to *Salisbury* use, where the *Majora Duplicia* are reckon'd to be *Candlemas*, *Corpus-Christi-Day*, *All-Saints*, and some few more, (*Christmas*, *Easter*, and some such more being *Principalia Duplicia*) and the *Minora Duplicia*, *St. Stephen's Day*, *St. John's*, *Innocents*, the *Annunciation*, the Holy-days of *Easter* and *Whitson-Week*, and some such more; and then the *Inferiora Duplicia*, the Days of *St. Andrew*, *St. Thomas the Apostle*, *St. Matthew*, *St. Gregory*, *St. Ambrose*, *St. Mark*, *St. Augustin*, the Apostle of *England*, *St. Michael*, and some more, among whom *St. George* is number'd, but with this Note, *Festum Sancti Georgii secundum Constitutionem Provinciale est majus Duplex*; *Et consulo ut ita observetur, licet hoc non habeat consuetudo*; whence we know clearly that it was not kept according to the Canon. In that *Ordinale* also it appears, how by Reason of the Concurrence of the 23d of *April* with *Easter* or *Easter-Even*, the Celebration of the Feast every where, was put off to the 9th or some other Day of *May*, as the Case required in their Ecclesiastical Discipline. But in the End of an old *Ordinale* of the Province of *York*, I find it noted, that if *St. George's-Day*, or *St. Wilfrid's* (which is the 24th of *April*), fell on *Easter-Eve*, (as it happens in some Years, that have either eight or nineteen for the Cycle of the Moon), the Celebration was to be anticipated and cast into the 8th or 9th Day preceeding, or into the 16th or 17th Day of *April*, when the Number of our Holy-days were necessarily reform'd under *Henry* the 8th for the Practice of every Man's Labour in his Vocation, (which was before forbidden in them), the Feasts of the Apostles, of our Blessed Lady (as the Words are before *Henry* the Eight's *Primer*), and of *St. George*, and of the four Evangelists, and of *Mary Magdalen*, are (besides some other more eminent Feast-Days) excepted in the Reformation. Thus it remained a general Holy-day, until by Act of Parliament under *Edward* the 6th, (5 and 6 *Ed. 6. Cap. 3*). those Days which we now keep Holy in our Church, were singled out only for Holy Days, to be kept and commanded to be kept, provided always (as the Words of the Act are) that it shall be lawful for the Knights of the Garter,

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Garter, and to every of them, to keep and celebrate solemnly the Feast of their Order, commonly called *St. George's Feast*, yearly from henceforth the 22^d, 23^d, and 24th Days of *April*, and at such other Time and Times as yearly shall be thought convenient by the King's Highness, his Heirs and Successors, and the said Knights of the said Honourable Order, or any of them now being, or hereafter to be, any Thing in this Act heretofore mention'd to the contrary notwithstanding. This Act was repeal'd in Queen *Mary's* Time, but it is since reviv'd.

Notwithstanding these Testimonies both of the Eastern and Western Churches, and the so ancient and continu'd Honour done to this Martyr, and that by our Nation particularly; there have been some, and that most learned Men (*Rainold. de Idololatria Lib. 1. Cap. 5. &c.*) who in our Age (for we find not any of them ancients) while they have fervently opposed the Invocation of his Name with others, have denied him also any Being at all, unless you will with them, make him the same with the *Arian* Heretick, *George* Bishop of *Alexandria*, cruelly murder'd there, whom *Ammian. Merzell. (Lib. 22.) St. Athanasius (Apol. 2. &c. de fuga sua &c. Epist. ad solit. vit. degentes)*, and *Gregory Nazienzen (Orat. in laud. Athanas.)* have obviously mention'd. This *Arian*, they say, began to be worshipp'd as a Saint, and was also of *Cappadocia*, and that the *St. George* we speak of as the Patron Saint of the *English*, is mentioned in no good Story of the Church, but grew in Legends to be he, that is now made out of that Heretick's Name of *Alexandria*. And they would so have the whole Picture of our *St. George*, (whereof more presently) to be Symbolical and not Historical. For divers Circumstances of his Martyrdom, I confess, there is no Reason we should believe them, as they are related; being so incredible, so various, and so contrary sometimes one to the other. But that is common to him with many other Martyrs, of whose having been Martyrs, we doubt not, tho' their Miracles and many of the Circumstances of their Sufferings be too incredible. The Question is only whether there were one or no of this Name, that suffer'd Death in the Persecutions as a Martyr; and that at *Lydda* or *Diospolis*, being a *Cappadocian*. For good Stories of him, we know that of the Time wherein he is sup-

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posed to have suffered, we have no Historian of the Church, but *Eusebius*, who mentions not the Name of one Martyr in divers Hundreds, that he tells us of in general. But the many and ancient Dedications of Churches to him, old Relations of his Miracles and Apparitions, the peculiar Liturgies and Festivals in both Churches belonging to him, and divers other Particulars beforementioned or design'd of him, (his being a Martyr having been never before this Age question'd) may supply the full Weight of the best Ecclesiastical Story that could have been left of him. And for the Arguments brought against him out of the Name of that *Arian* of *Alexandria*, as if Posterity had turn'd that Heretick into this Martyr, and so created him with a Fiction of mistaking, there is no other warrant for any such Supposition, but mere Fancy: For it is plain by *Ammian. Marcell.* that the *Arian George* was a *Cilician*, not a *Cappadocian*; tho' he came indeed being sent for out of *Cappadocia*, as we know out of *Athanasius*. Neither is there any Thing in the Relation of them common to them both, but the only Name of *Cappadocia*, which to the one was a Place of former Abode; to the other both of Abode and Birth, as it is usually taken: Neither appears it that the *Arian* was ever worshipped, or began to be worshipped as a Saint, nor doth the Place brought to prove so much out of *Epiphanius*, warrant with any other Colour any such Matter; so that whether *St. George* were at all or not, depends only upon the Authority of the so ancient Consent and Use of the Churches of the East and West, and nothing at all that is deduc'd out of the Story of *George* the *Arian* of *Alexandria*, and applied to this of ours, doth in the least Degree, if rightly consider'd, impeach the Truth of his Martyrdom. And which is principally to be thought of here, the Martyrdom of our *St. George* is plac'd under *Diaclesian*, about 290 of Christ, that Rage of the People in murdering him of *Alexandria*, after 360, so that thereinterceeds 70 Years between them. Why should we now begin so to confound into one these two, who for above 1200 Years Time, have in both Churches with all publick Attestation been kept so severall, that as the one (our *St. George*) was highly worshipped for a Saint and Martyr, so the other (of *Alexandria*) hath been remembred only as a most wicked Heretick,

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Heretick, and most different in his Life, Dignity, Death and Age from the other.

The Figure of *St. George* arm'd on Horseback and the Dragon under him (just like the Arms of the Emperor of *Russia*) is that which is fix'd to the Collar of the Order; for his being arm'd and on Horseback, no apter Figure could be made of him, being supposed a Soldier and a Commander, as is before shew'd; and the *Greeks* anciently shap'd him so, as appears in *Nicephorus Gregoras* (*Hist.* 8.) But some have thought that the Dragon was rather symbolically added, than upon any historical and just Ground. It was as ancient a Fashion as *Constantine* the Great, to express the Devil in that Shape, because he is so call'd in Holy Scriptures; and therefore also did *Constantine* command his own Picture, as of one that triumph'd over the Devil, to be made with the Cross over it, and a Dragon by him thrust through with a Sword, and tumbled headlong into the Sea, which saith *Eusebius* (*De vita Constantini Lib.* 3). was but a Figure of that in the Prophet *Esay*, *In that Day the Lord with his sore, and great, and mighty Sword, shall visit the Dragon, that piercing Serpent, even the Dragon, that crooked Serpent, and he shall slay the Dragon that is in the Sea,* (*Isaie, Cap.* 27. *Com.* 1). In other Figures, he hath sometimes before him a Maid kneeling, which learned Men have conceived also to be Symbolical, and to denote some Country or City only imploring his Aid; and the old Fashion being (as at this Day) to expose Countries or Cities in Feminine Shapes. (*Selden Tit. Hon.*)

(1) *Edward*

The Scite of this College is the Castle of *Windfor*, with the Chapel of *St. George*, erected by that great King *Edward* the 3d, as also the Chapter-house in the said Castle. This Order (according to *Cambden*) received great Ornament from *Edward* the 4th (1). And *Charles* the

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the 1st. (2) as an Addition to their Splendor, order'd all the Companions of the Order, to wear on the left Side of their upper Garment the Cross of *England*, encircled with the Garter and Motto, (*Honi soit qui Mal y pense*), commonly thus interpreted, (Evil to him that Evil thinketh), or rather thus, (To him be it that Evil thinketh) from whence 'round about are cast Beams of Silver, like the Rays of the Sun in full Lustre. This is what I have thought sufficient to insert in this small Treatise, concerning the Knights of the Most Noble Order of the Garter; and for farther Satisfaction herein, I shall refer the Reader to that large Tract written by *Elias Ashmole* Esq; concerning this Order.

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(*Edward the 4th*) The Reign of *Henry* the 6th, was for the most Part in the former Parts of it, like Fire buried up in the Ashes, and in the latter Parts breaking out into a Flame; in the Heat whereof, the Duke of *York* after Fealty given by him to *Henry* the 6th, and Dispensation gotten from the Pope to break his Faith, lost his Life, and left his Son the Markgrave, to pursue his Title to the Crown, which he claim'd by Inheritance, but more especially by Act of Parliament, made upon the Agreement between *Henry* the 6th and his Father. This was *Edward the 4th*, who nevertheless reserv'd himself to the Election of the Lords, and was by them received and commended to the Commons in the Field, by which Means he gaining the Possession, had also Encouragement to maintain the

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the same, yet never held himself a King of full Age, so long as *Henry* the 6th lived, which was the one half of his Reign: Nor did he, tho' he held many Parliaments, scarce reach higher than at reforming of Trade, which was a Theme well pleasing to the People, next unto their Peace, which also the King carefully regarded. For altho' he had been a Soldier of good Experience, and therewith successful, yet as one loth to trust too far, either the Constancy of the People of his own Opinion, or the Fortune of the War with his Neighbouring Princes, he did much by brave Countenance and Discourse, and yet gain'd Repute to the *English* for Valour, after the dishonourable Times of *Henry* the 6th. He had much to do with a wise King of *France*, that knew how to lay out three or four calm Words at any Time, to save the Adventure of his People's Blood, and make a Shew of Money to purchase the peaceable holding of that which was his only by Force, until the Wind prov'd more fair, to bring all that Continent under one Head. In his Government at Home he met with many cross Gales, occasion'd principally by his own Rashness and Neglect of the Earl of *Warwick's* approv'd Friendship, which he had turn'd into profess'd Enmity; and so weakned his own Cause thereby, that he was once under Water, his Kingdom disposed of by new Entail upon the Heirs of the Duke of *Clarence*, and so the Earl of *Warwick* remain'd constant to the House of *York*, tho' this particular King was set aside. (*Com. Lib. 3. Cap. 4, 5, 6.*) Nor did he in all this gain any Thing but a Wife, who tho' his Subject, and none of the greatest Family, neither brought any Interest to her Lord and Husband amongst foreign Princes, brought nevertheless a Pearl, which was beyond all; which was the Purchase of the Union between the two Houses of *York* and *Lancaster*, and a peaceable Succession in the Throne for a long While to come. It must be granted, that there fell therewith an unhappy Inconvenience in the raising of a new Nobility of the Queen's Kindred, of whom the ancient Stock of Nobility thought scorn, and yet they were so considerable as to be envied; a Wound hard to be cur'd, and yet easily avoided, by such as know how to deny themselves, and therefore can be no Prejudice unto that Conclusion; that for an *English* King to marry his own Subject, is more safe for the King and beneficial for the King-

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Kingdom, than to marry a Stranger. But *Edward* the 4th did not long sit underneath, upon the next fair Gale, he comes from beyond the Sea, and (like his first Predecessor of the House of *Lancaster*,) claims only his Dutchy, which no Man could in Reason deny to be his Right, and therefore they were the sooner engag'd with him on that Account. This was an Act, that in the first Undertaking seem'd modest; but when it was done, appear'd too bold to adventure it upon the Censure of *Henry* the 6th. Thus *Edward* the 4th recover'd the Crown to save his Dutchy. His Government was not suitable, for he came in by the People, but endeavour'd to uphold himself by foreign Dependences; as if he desir'd to spread his Roots rather wide than deep: How ill this Choice was, the Event shew'd; for Plants that root wide, may be strong enough against an outward Storm, but they soon grow old, barren, and rot irrecoverably from beneath: Such was the End of this Man's Government, himself liv'd and dy'd a King, and left Issue both Male and Female: The one tasted the Government, the other kiss'd it, but neither of them ever enjoy'd further than a bare Title. Nor was the Government of *Edward* the 4th so secur'd by these Engagements of Foreigners, for as he sought to delude, so he was deluded both by *Burgundy* and *Scotland* to the Prejudice of all three. Towards his own People, his Carriage was not so much by Law as by Leave; for he could fetch a Course out of the old way of Rule, satisfy himself, dissatisfy others, and yet never was call'd to account. What was done by Entreaty no Man could blame, and where Entreaties are countenanced by Power, no Man durst contradict. Thanks to his Fate, that had brought him upon People tir'd with Wars, scar'd by his Success, and loth to venture much for the House of *Lancaster*, in which no Courage was left to adventure for it self.

The greatest Error of his Way was in the Matter of Revenue: the former Times had been unhappy in respect of good Husbandry, and *Edward* the 4th was no Man to gather Heaps, his Occasions conduc'd rather to diffuse, and his Mind generally led the Way thereto; so as it is less Wonder, if he call'd more for Accommodations, than the ordinary Treasury of the Crown could supply: Hereto-
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therefore he us'd Expedients, which in his former Times were more moderate; for whilst *Henry* the 6th liv'd, he did but borrow by Privy Seal, and take Tonnage and Poundage by way of Hire; afterward, when no Star appeared, (but what was enlightned by his own Sun), he was more plain and try'd a new Trick call'd Benevolence; unwelcome it was not only in Regard of its own Nature, but much more in the End; for it was to serve the Duke of *Burgundy*, in raising a War against *France* in the first View, but in the Conclusion to serve his own Purse, both from Friends and Foes: And yet this also passed without much Controul; for when Displeasure was like to ensue, he could speak fair and feast, and if need was, hiss away all Discontent: Towards his End, as Stale-Drink, he grew soure: For as in the first Part of his Reign, he had been supplied by Good Will against Law; so in his latter Times, he had gotten a Trick of Supply by Law against Good Will: This was by Penal Laws, which are a Remedy, if they be us'd *ad Terrorem*, but if strain'd beyond that, the Remedy proveth worse than the Disease. In their first Institution they are Forms of Courtesy from the People to the King; but in the rigorous Execution of them, are Trials of Mastery of the King over the People, and are usually laid up against Days of Reckoning between the Prince and them. Those Penal Laws are best contriv'd, that with the greatest Terror to the Delinquent bring the least Profit to the Kings Coffer. Once for all, this King's Acts were many, his Enterprizes more, but seldom attaining that End which they fac'd. He was a Man of War, and did more by his Fame than his Sword; was no sooner resolv'd in good Earnest but he died, left a Kingdom unassur'd, his Children young, and many Friends in Shew, but in Truth very few. (*Bacon's Historical Account of the Uniformity of the Government of England. Part 2.*)

(2) *Charles* the 1st.] Came to the Crown of *England* in 1625. he had Wars with his Parliament for seven Years, and being then taken out of their Hands by the Army under *Oliver Cromwell*, when he was upon a Treaty at *Uxbridge* for his Restoration to his Crown and Dignity; they perfidiously condemn'd him by a pretended High Court of Justice, and beheaded him at *Whitehall-Gate*, Jan. the 30th 1648.

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This Prince is suppos'd in a Book (Entitul'd, *The Triumph of Truth for the Peace of the Church, to invite the King of Great Britain to embrace the Catholick Faith.*) which Miletire (*Theophilus Brachet* *sieur de la*) the Author, Dedicated to his Son, King *Charles* the Second, to have Dy'd a Member of the Roman Catholick Church; which Supposition is not altogether groundless, since all the World knows, that he was a great Favourer of *Popery* in his Life time.

As to the Book (Entitul'd, *Εἰκὼν Βασιλικὴ*) which goes under this Prince's Name; *Milton* (in his Answer, Entitul'd *Εἰκονοκλάσις*) maintain'd that he was not the Author of that Book; and time has shewn, that he maintain'd this upon good Grounds. I shall give the Reader a full and clear Account of this Matter, which hath made so great a Noise in the World, from *Eayle's* Annotations upon the Life of *Milton*.

Perhaps (saith he) there never happen'd any thing more singular than this, in what concerns the History of Books: The Dispute, that was rais'd about this Matter of Fact, has been very fruitful in Books; the Parties thinking that this Matter would be attended with many notable Consequences, grew Hot, and us'd all manner of Industry in their Discussions: This warrants me to give a particular Account of this Affair.

I Begin with the Book itself, whose Title is, *Εἰκὼν Βασιλικὴ*. It was Translated out of *English* into divers Languages: The *Sieur Porree* Translated it into *French*, and added to it a very long Preface, and Dedicated his Translation to the King of *England*, *Charles* the Second: This was of the *Paris* Edition, by *Lewis Vendosme*, 1649, in 12°. *Milton*, who refused this Book, suppos'd that some Friends of *Charles* the First were the true Authors of it; and that they Publish'd it on purpose to render the Conduct of the Parliamentarians more Odious. I have a *French* Version of his Answer in 12°, and the whole Title Page runs thus; *Εἰκονοκλάσις; or An Answer to a Poem Entitul'd Εἰκὼν Βασιλικὴ, or The Portraiture of his Sacred Majesty, during his Solitude and Sufferings,* by

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by Mr. John Milton; Translated from the Second and larger Edition, and revis'd by the Author. To which are added divers Pieces mention'd in the foresaid Answer, for the greater Convenience of the Reader. At London, by William Du-Gard, Printer to the Council of State, in 1652: And are to be Sold by Nicholas Bourn, at the South-Gate of the Old Exchange.

I will here set down a Passage of the Answer of Milton to *Clamor Regij Sanguinis*, which concerns the Order, that the King gave upon the Scaffold to the Bishop of London, which was to acquaint his Son, that he would never have him punish the Authors of his Death. This Bishop being press'd by the Judges to declare what the King had recommended to him, Confess'd at last it was this; whereupon Milton made this Remark. *O Magis, Regemne dicam Pietatis, an Episcopum Rimarum plenum; qui rem tam secreto in Pigmate sua Fidei commissam ut Effutiret, tam facile expugnari potuit. At O Taciturne! jampridem Carolus hoc Idem inter Alia praecepta Filio mandaverat, in illa Icone Basilica, quem librum ideo Scriptum satis apparet, ut Omni cum diligentia nobis vel invitis Secretum illud, qua Ostentatione simulatum erat, eadem paulo post evulgaretur. Sed Video plane decrevisse vos Carolum quendam Absolutissimum, si non Stuartum hunc, at Saltem Hyperboreum aliquem & fabulosum, fucatis quibuscumque Coloribus depictum, imperitiis rerum obtrudere; Item Fabellam hanc velut Acroama quoddam, diverbiis & sententiolis pulchre distinctam, nescio quem ethologum imitatus, ad inescandas vulgi Aures putide Concinnasti.* (Milt. Defens. 2. p. m. 86.) The Opinion of this Writer made no Impression in strange Countries; every Body there was persuaded that King Charles the First wrote the Book, which bears his Name, which did so much Honour to his Memory, and appear'd so fit to make him to be lookt upon as a True Martyr; that it was thought that Milton endeavouring to rob him of it, did only use the Trick of Advocates, who deny every thing that is too Favourable to the contrary Party. Those of the Cromwellians who remain'd in England, agreed

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to *Milton's* Judgment; but their Opinion was suspected for the Reason I have just now given. All the Partizans of the Cause of *Charles* the First, Oppos'd this Opinion very earnestly; and because their believing, that this Prince was the true Author of *Εἰκὼν Βασιλική*, was a thing that favour'd the Interest of their Cause, they might have been suspected, as well as the others, of using the Artifice of Advocates; nevertheless their Opinion prevail'd in *England*, and could not be beaten down by certain Matters of Fact; till at last some things happen'd which have destroy'd it: Here follows the Beginning and Progress of that Affair according to the Narrative of *Mr. Toland*.

In the Year 1686 *Mr. Millington* happening to Sell the late Lord *Anglesey's* Library by Auction, put up an *Icon Basilice*; and a few bidding very low for it; he had leisure to turn over the Leaves, when, to his great Surprise, he perceiv'd written with the same Noble Lord's own Hand, the following Memorandum. 'King *Charles* the Second, and the Duke ' of *York*, did both (in the last Session of Parliament, ' 1675, when I shew'd them in the Lords House the ' written Copy of this Book, wherein are some Corrections and Alterations written with the late King ' *Charles* the First's own Hand) assure me, that this ' was none of the said King's Compiling, but made ' by *Dr. Gauden*, Bishop of *Exeter*, which I here insert for the undeceiving of others in this Point, by ' Attesting so much under my own Hand,

Anglesey.

Since this Particular came to be known, there was much Discourse about it; and some ask'd *Dr Walker* about this Matter, because they knew that he had been well Acquainted with that Bishop of *Exeter*: He declar'd to them what he knew of it; and being provok'd and much Offended by *Dr. Hollingworth*, he Publish'd, for his own Justification, an Account of this Book: He declar'd that *Dr. Gauden* Communicated to him the whole Project of that Affair, and
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some Chapters of the *Icon Basilice*, and the Plan of some others: He related the Evasion, which this Dr. made use of, when he told him, he did not approve of this way of Deceiving the Publick: He told many other Particulars, and among others these three, which he said, he had from Dr. *Gauden*, viz. First, That the Bishop of *Salisbury* took upon him to write two Chapters of that Book. Second, That Dr. *Gauden* sent to the King, in the *Ile of Wight*, a Copy of the *Icon Basilice* by the Marquess of *Hertford*. Third, That the Duke of *York* knew very well, that Dr. *Gauden* was the Author of it: He added, that the Son of this Dr. his Wife, and Mr. *Gifford*, who Transcrib'd this Book, did firmly believe it had been Compos'd in the Place where they dwelt: He affirm'd, that it was the Common Opinion of the Family, that Dr. *Gauden* wrote it; and that they always spoke of him as the Author of it, whether he were present or absent; and that he never deny'd it. I pass over in silence many other Proofs and Confirmations which are in the Account of Dr. *Walker*.

His Narrative was sometime after Confirm'd in such a Manner, as pass'd for a full Proof of the Imposure; which happen'd thus. A Merchant of *London*, call'd *Arthur North*, a Man of very good Credit, and a Member of the Church of *England*, having Married a Sister of the Wife of *Charles Gauden*, Son to the Dr. after the Death of his Brother-in-Law, had the Management of the Widow's Affairs; he found among the Papers of the Deceas'd, a Bundle, which only concern'd the Affair of the *Icon Basilice*: The Widow of Dr. *Gauden* had left this Packet with her Son, *John Gauden*, whom of all her Children she lov'd most tenderly, and he left it to his Brother *Charles*. In this Bundle there was found, First, A Letter of Secretary *Nicholas*, written to Dr. *Gauden*. Secondly, The Copy of a Letter, which this Dr. wrote to Chancellor *Hyde*, wherein, among other Services he had done, he mention'd one, that was truly Royal, and worthy of a Royal Reward, since he design'd by it to Strengthen and Encourage the

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King's Friends, and to Expose and Convert his Enemies. Thirdly, The Copy of a Letter, which he wrote to the Duke of *York*, earnestly Representing the good Services he had done. Fourthly, A Letter written with Chancellor *Hyde's* own Hand, Dated *March 13. 1661.* wherein the Chancellor declares, that he is sorry for his Importunity, and Excuses himself that he cannot do him Service; the Conclusion of this Letter is remarkable, which is in these Words; The Particular you mention has indeed been imparted to me as a Secret, I am sorry I never knew it; and when it ceases to be a Secret, it will please none but Mr. *Milton*. The same Bundle contains, among other Papers, a long Narrative written by Dr. *Gauden's* Wife: This Relation proves irrefragably, that her Husband was the Author of *Icon Basilice*; it contains a full Confirmation of Dr. *Walker's* Account, and most of the Facts hitherto related, with many other Circumstances, very Curious and Extraordinary: This Narrative being Transcrib'd from the Original, in the Presence of some Persons of Learning and Integrity, was Printed in a Book, Entitul'd, *Truth brought to Light*. These are the Means, by which this Imposture was fully discover'd; this great Secret, which had been Contriv'd with much Artifice, and which the Persons, concern'd to conceal it, had Manag'd so dexterously, happen'd to be discover'd by very nice and unforeseen Accidents: If Dr. *Gauden* had not been Disappointed of the Bishoprick of *Winchester*, he had not insisted so much upon the Service he had done by writing this Book: His Widow had not written a Narrative, if she had been Gratified with one Half Years Rent after her Husband's Death. The two Princes, the Sons of *Charles* the First, laid open the Secret by a casual Surprize, when my Lord *Anglesey* shew'd them some Writing of the King their Father: and if another than *Millington* had Sold that Lord's Books, the Declaration which was then made by those two Princes had never been known: and if Dr. *Hollingsworth* had not by his Indiscreet Zeal provok'd Dr. *Walker*, he had never Publish'd his Account; and if he had never

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never Published it, the Papers of Mr. North, which Compleat the irrefragable Proofs of this Matter of Fact, had never been made use of for the Discovery.

Note, That in all this, I neither ought nor can be considered, but as a meer Transcriber of *Milton's* Life, Publish'd in *English*. Note also, that this Passage of the Life of *Milton* has been oppos'd; for Mr. *Wagstaff* Publish'd some Observations to weaken the Testimony of my Lord *Anglesey*, the Narrative of Dr. *Walker*, and the Papers of Mr. North; but Mr. *Toland* has refuted them all in his *Amyntor*, wherein he hath further discuss'd all the Testimonies, that are alledg'd to assert the Property of *Icon Basilice* to King *Charles* the First. I have been told, that as both these Parts of his Apology (that is to say, the Answer to the Objections of Mr. *Wagstaff*, and the Answer to the direct Proofs, alledg'd by the Partizans of King *Charles*) he has omitted nothing that was necessary to maintain the full Evidence of his Proofs, and all the strength, they appear'd to have before any one wrote against them: This is all that I can say, having never read any thing that was written against him, nor what was reply'd by him.

I will conclude this Remark with a thing that Mr. *Milton* made a great Noise about; and which was renew'd in the last Dispute about the *Icon Basilice*; which is this, viz. that the Prayer King *Charles* the First deliver'd to Dr. *Fuxon*, immediately before his Death, Entitul'd, *A Prayer in the time of Captivity*, which is Printed at the end of the best Editions of his Book; is perfectly like a Prayer, which is found in a Romance, I mean in Sir *Philip Sidney's* *Arcadia*. This will appear by the Parallel, which *Milton* plac'd at the end of his Answer (that is to say of his *Iconoclastes*) to which I refer the Reader. The Manner wherein he draws the Parallel between the Prayer of King *Charles* the First, and that in the *Arcadia*, is by placing those Prayers, and the Titles thereof, Word for Word, in two Columns Opposite to each other, the easiest and readiest way of Comparifon. He quotes Pag. 248. Edit. 1674 of the *Arcadia*. (*Hist. and Crit. Dict.*)

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A Banneret, *Bannerettus*, *Miles*, *Vexillarius*, is a Degree of Honour esteem'd the last among the Greatest (I mean *Nobilium Majorum*) or the first with those of the second Rank. In Mr. *Skene's* Opinion, it is compounded of Banner and Rent; but *Cambden* (1) derives it from the German *Banner-Heys*, and cannot trace their Antiquity (2) beyond the Times of *Edward* the 3d, when *England* was at its Height for Martial Discipline; and saith, that till Time sets this Matter in a clearer Light, he must believe that this Honourable Title was then first invented as a Reward to Warlike Courage. There have been three Forms of Creations; viz. Sometimes under the Royal Standard display'd, the Person by having the lower End of his Penon cut off into a Square (such as Barons (3) use) receiving this Honour. 2. Or by Patent, as *Edward* the 3d created *William de la Pole*, *ut statum & Honorem teneret & contineret Banneretti*, to him and his Heirs. 3. Or by Writ, as *Nicholaus de Grey* was declared by Writ of *Edward* the 2d, to be *De Familia Regis tanquam Bannerettus*, thereby meaning both Precedency and Salary (4) accordingly. Sir

(1) *Cambden's Brit. Fol. p. 179. Edit. ult.*

(2) *Anti-*

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(2) *Antiquity.*] The antientest mention (saith the Great *Selden*), that I remember of the very Name of this Dignity, is in the Time of *Edward* the 1st in the Accounts of his Wardrobe, and in other such Testimonies Bannerets are often mentioned; and if I be not much deceiv'd (he goes on) we have mention of some Creations of them under him in our Histories, 'when King *Edward* the 1st lay before *Berwick*, *Exercitu præparato in Planitie*, (saith *Walter of Gistane*, *Chronic. de Gest. Reg. Anglia*, Cap. 269. MS.) *fecit ibidem Rex novos Milites; Henricum scilicet de Percy cum aliis multis, quod cum vidissent Marinarii nostri, qui eum 24 navibus bellicis expectabant in mari coram Portu, credebant Regem velle confestim insultum facere urbi, eo quod videbant armatum exercitum & multa vexilla explicata, moxque cum fluctibus Maris redundantibus & ipsum Portum ingressi sunt*, and the Story goes on as in others. But that which this Author says, is, that the King made many new Knights, the Ceremony whereof, when they at Sea perceiv'd, they apprehended that he would presently make some Charge, because they saw both the Troops arm'd and many Banners display'd. Now it seems clear by *credebant* here, and *astimantes* to the same Purpose, in *Thomas of Walsingham* (who hath the Body of the Story, tho' not so particularly), and by the Circumstances of the whole Relation, that they at Sea misinterpreted what they saw, by Reason they apprehended the many Banners display'd at the Creation, for a Sign of the King's present Purpose of some Onset.

(3) *Such as Barons use.*] *Coke* gives us the Etymology of Baron and Banneret, their Distinction, Duty, and Manner of the Banneret's Creation in these Words, viz. *Baner*, (saith he) legally *Bannerium*, *vexillum*, *Banerher*, unde *Banerherius* or *Banerius*, i. e. *Baro*, *vexillarius major*, & *Banerettus* a Diminutive of *Banerius*, *Vexillarius minor*. A Baron is call'd *Banerherius* or *Banerius*, of the Banner (being the Ensign of his Honour), which serveth for a Guide and Direction; so the Baron, observing the End of his Nobility, should be an Example and Guide to others, as well in War as in Peace, in all notable Hab-

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lities and Vertues, and so of the Baneret. Both have one Kind of Banner, for the Banneret is created in the Field in the King's Host, (and amongst other Things,) by cutting the sharp Point of his Pennon, and making it a Banner, *i. e.* *Vexillum Baronis*, so as the Banneret hath the Banner, but not the Lignity of the Baron. (*Inst.* 4. *Pag.* 6.)

(4) *Precedency and Salary.*] Under these Bannerets divers Knights Batchelours and Esquires usually serv'd, and according to the Number of them, the Bannerets receiv'd Wages, as *Domino Joanni de Segrave Banneretto pro vadiis suis, Domini Joannis de sancto Joanne Banneretti 11 Militum, Et 41 Scutiferorum suorum a primo Die Octobris, quo die equi sui fuerunt appreciati, usque tertium diem ejusdem Mensis, utroque computato per tres dies, cuilibet Banneretto 4 Solidos, cuilibet militi 2 Solidos, Et cuilibet Scutiferorum suorum per diem 12 Denarios, &c.* which occurs in some Accounts of the Wardrobe of 4 *Ed.* 2. and very many such Occurrences in the old Account Books of Wardrobe remaining in the *Exchequer*, saying that 'tis rare that a Banneret serv'd under a Banneret, as here Sir *John St. John* did under Sir *John Segrave*. Of the Name of Banneret, as it sometimes express'd a Baron of Parliament, enough shall be said by and by. And as in that Notion of it, Baronet was often miswritten for it, so also in this. Neither only have the old Stories *Baronetti* very frequent for *Banneretti*, but even in a Patent pass'd to Sir *Ralph Fane*, a Knight Banneret under *Edward* the 6th, he is call'd *Baronettus* for *Bannerettus*.

(1) Sir

Sir *Thomas Smith* (1) saith (2), that a Banneret is a Knight made in the Field, with the Ceremony of cutting off the Point of his Standard, and making it as it were a Banner, and accounted so Honourable, that they are
allow'd

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allow'd to display their Arms in the Field in the King's Army as the Barons do. *Cambden's Words are, Banneretti (3) a Baronibus secundi erant, quibus inditum Nomen a vexillo, concessum enim erat illis militaris virtutis ergo quadrato vexillo (perinde ac Barones) uti unde & Equites Vexillarii a nonnullis Latine vocantur.* That they be next to Barons in Dignity, appeareth by the (4) *Stat. 14. R. 2. Cap. 11.* and by 5 *R. 2. Stat. 2. Cap. 4.* (5) it may be conjectur'd that they were anciently call'd by Summons (6) to the Court of Parliament. And in the 13 *R. 2. Stat. 2. Cap. 1.* (7) we find that a Banneret, for praying a Pardon for a Murderer, is subject to all one Punishment with a Baron. *Henry the 7th (8) made divers Bannerets (9) upon the Cornish Commotion. Anno 1495.*

Next

(1) Sir *Thomas Smith* was born at *Saffron-walden* in *Essex*, and educated at *Queen's-College* in *Cambridge*. He afterwards travell'd at King *Henry the 8th's* Charge, and upon his Return to *Cambridge*, was made Orator of the University, *Greek Professor*, and afterwards Professor of Civil Law, whereof he commenced Doctor in the Reign of King *Edward the 6th.* He was by the Recommendation of the Duke of *Somerset* (then Protector) made Secretary of State, a Knight, and Dean of *Carlisle*, and much about the same Time Provost of *Eaton-College.*

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In Queen *Mary's* Reign he was depriv'd of these Dignities, and had only a Pension of 100*l. per Annum* assigned him from the Crown : But when Queen *Elizabeth* (*Amor Angliae*) ascended the Throne, he was restor'd to his Preferment, and afterwards discharg'd several Embassies he was sent upon to great Satisfaction. To sum up his Character, he was an eminent Orator, *Gracian* and Civilian. He wrote a small Treatise of the *English* Commonwealth, in three Books, publish'd at *London* 1583. and at several other Times, and afterwards translated into *Latin* by Dr. *Budden*. A singular Book of Orthography of the *English* Tongue, and another of the Pronunciation of the *Greek*. The Authority of the Form and Manner of holding Parliaments publish'd in 1685. He is Author also of several Letters extant in Sir *Dudley Diggs's Compleat Ambassador*, and was the first Man, who set on Foot the Law for serving the Colleges with Provision ; he left all his *Latin* and *Greek* Books to *Queen's College* in *Cambridge*, and died in the 63d Year of his Age, *A. D.* 1577.

(2) *Saitb.*] *Lib. de Rep. Angl. Cap.* 18.

(3) *Banneretti.*] *Brit. lat. 8vo Edit. pag.* 105.

(4.) *Stat. 14 R. 2. Cap. 11.*] The Clause of this Statute (entitul'd, in every County there shall be eight Justices of Peace, their Estreats and Wages) for our Purpose is, *viz.* And that no Duke, Earl, Baron, or Baronet, albeit they be assign'd Justices of the Peace, and hold their Sessions with the other eight Justices, shall take any Wages for the said Office.

(5) *5 R. 2. Stat. 2. Cap. 4.*] The Clause of this Statute (entitul'd, every Person to whom it belongeth, shall upon summons come to the Parliament) whereby we are induc'd to believe that Bannerets were call'd by Summons to the Court of Parliament, is, *viz.* (2) and if any Person of the same Realm, which from henceforth shall have the said Summons (be he Archbishop, Bishop, Abbot, Prior, Duke, Earl, Baron, Banneret, Knight of the Shire, Citizen of City, Burgefs of Borough, or other singular Person or Commonalty) do absent himself, and come not at the said Summons (except he may reasonably
and

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and honestly excuse himself, to our Lord the King) he shall be amerc'd and otherwise punish'd, according as of old Times hath been us'd to be done within the said Realm in the said Case.

(6) *Call'd by Summons.*] The next Particular concerning Barons here (saith the Great *Selden*, having talk'd of them several Pages together before) is that of the Title of Banneret given to some Temporal Barons, as if it were in them a Synonymy or an Equivalent Name to a Baron. That which concerns that Name of Banneret, as it signifies in Knight Banneret, hath been already shewn; but here the Notion of the Word is only as it express'd a Parliamentary Baron. In the Proceeding against *John de Cominez*, and *William de Weston* in the first Parliament of *Richard* the 2d, it is said, that the Lords of the Parliament, i. e. the King of *Castile* and *Leon*, Duke of *Lancaster*, *Edmund* Earl of *Cambridge*, and divers other Earls and Barons there mention'd by Name, and *Plusours autres Seigneurs Barons & Bannerets esteants au dit Parlement assemblez*, had took Advice touching the Answers of the Defendants, (*Rot. Parl. 1 R. 2. M. 6.*) and whereas in the Statutes of the same King, as we read them in *English*. Every Archbishop, Bishop, Abbot, Prior, Duke, Earl, Baron, Baronet, Knight of the Shire, &c. are commanded under Pain of Amerciament or other Punishment according to antient Use, to appear in Parliament, (*Stat. 2. 5 R. 2. Cap. 4. Vide etiam Thomam Walsingham, Pag. 359. Ed. Franc. & Rot. Parl. 1 H. 4. Membr. 16. n. 59. de Bannerettis quibus plane eo nomine sedes & vox inter Proceres Regni erat*), the *French*, both of the Roll and of those Books that are truly printed, hath Banneret, and some by a little mistaking *Barneret* for the same Word. As when mention is in the old Stories of Knights Banneret, the Word Baronet (which runs easier from the Tongue) is often for Banneret; so tell it, not only in the *English* Print of our Statutes, but also in a Report of a Case, that is of a later Time, than that to which our present Division, yet confines us, that Baronet (for Banneret) is likewise us'd for a Baron; for in an Attaint under *Henry* the 6th, one of the Jury challeng'd himself, because his Ancestors had been Baronets and

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Seigneurs des Parlements (35 H. 6. Fol. 46. a Tit. Challenge 44). I cannot doubt but that the Title of Banneret in this Sense was meant there, and also that the same Conception of the Word was in the Challenge made under Edward the 3d, of one of the Grand Assize, because he was a Banner, (as the Book at large says, 12 Ed. 3. Fol. 18. a.) or a Banneret as it is in Fitzherbert (Tit. Challenge 119). There was no Colour why the Title of Banneret, in that Notion, as it signifies a Knight Banneret only, should be any Cause of Challenge, therefore I see no Reason why we should think that it was us'd there in that Sense; but indeed it is disallow'd (altho' the Matter of the Challenge were just) because it was not legally made. That is, it did not legally appear upon the Challenge to the Court, that he was a Baron or Banneret of Parliament, which should have been certified to them by Record, as it was resolv'd also in that Case under Henry the 6th. I know the Answer given in the Book is, that altho' he be a Banneret, and hold not by Barony, he should be in the Assize. But I understand that, as if the Court had said, the Saying that he is a Banneret, is not Cause enough of Challenge, unless withal it be legally shew'd, that he be a Baron of Parliament; for *tenerè per Baroniam* was an obvious Phrase of those Times, deduced from more antient Use, to denote the being a Baron, tho' in Truth there was no Necessity, that a Baron must hold by Barony, because he might be by Writ only: And to this Use of the Word, we have much Light also from that Writ, whereby the Lord Camoys under Richard the 2d, was discharg'd from being Knight of the Shire of Surrey, (tho' he had been chosen) because he, as also many of his Ancestors had been Bannerets, and it had not been before in use to choose such kind of Bannerets Knights of the Shire. This was the Writ, viz. *Rex Vicecomiti Surrie salutem; quia, ut accepimus, tu Thomam Camoys Chivaler, qui Bannerettus est, sicut quam plures antecessorum suorum extiterint, ad essendum unum militem venientium ad proximum Parliamentum nostrum, pro communitate Comitatus predicti, de assensu ejusdem Comitatus, elegisti; nos advertentes quod hujusmodi Banneretti, ante hac tempora in milites Comitatus, ratione alicujus Parliamenti eligi minime consueverunt, ipsum de Officio Militis ad dictum Parliamentum pro Communitate Comitatus predicti, venturi, exonerari volumus, Et ideo tibi praci-*

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precipimus, &c. Neither may this Writ be understood of any other Banneret, than a Parliament Baron, or Banneret of that Time. The Expression of *hujusmodi Banneretti* shews, that it is not meant of all Bannerets, but such only, as have the Title either by Inheritance, or in such a Kind as that an Inheritance might be of it, which is apparent also by the preceeding Words in the Writ, *Bannerettus est, sicut quam plures antecessorum suorum extiterint*; for it was never conceiv'd that the Title Banneret, as it denotes a Knight Banneret, was hereditary. And in Truth it is plain, that one *Thomas Camoys* (who doubtless was the same Man) was a Baron and a Peer of that Parliament, and many of his Ancestors before him had likewise been Peers; for tho' the Name of a *Camoys* occur not in the Summons for the Space of about 50 Years before the Time of this Writ, yet from the eighth Year of *Edward* the 2d to the ninth of *Edward* the 3d, there is scarce a Summons without one of the Name. In that Year of *Edward* the 3d, the Name of *Rulfe de Camois* is in the Summons, as it is also frequently before, and some of the Name also are in much antienter Lists of the Barons of those elder Ages; but after the 9th of *Edward* the 3d, the Name by Reason of Nonage or some other Cause, was omitted till this 7th Year of *Richard* the 2d. And (as it sometimes happens) the Dignity it seems, being obscur'd by Abstinence from the Name of Lord or Baron, the Freeholders of *Surrey* chose him a Knight of their Shire; after which, according to his Ancestral Right, he being summon'd to Parliament, there was a Necessity to discharge him, which was done under the Name of Banneret, and not Baron, it seems, (according to the Fancy of that Time) because he had not a Barony, or held not *per Baroniam*. For about the End of *Edward* the 3d, if I be not much deceiv'd (saith *Selden*) one of his Ancestors, being also *Thomas de Camoys*, is found by Office to have died seiz'd without holding any Thing of the King. In *Surrey* and *Sussex* was the usual Dwelling and Possessions of these Lords of *Camoys*. But some learned Men also affirm (as *Cambden* for one, in his *Brit. Pag. 223.*) that *Broadwater*, a Town near the Sea in *Sussex*, was from *Edward* the 1st's Time the Barony of these Lords. But in that Office, I speak of, this *Broadwater* is held
of

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of the Honour of *Brember*, and of a Subject, which could not have been, if then it had been a Barony. But I think this here noted is enough to perswade us, that *Thomas Camoys* the Banneret in the Writ before cited, was no other than the Lord *Camoys* of that Time, whose Ancestors were Barons likewise, as the Rolls clearly inform us. This Use of the Name of Banneret proceeded it seems, from the *French* and the Right also, which was so proper to a Baron to advance his Arms in a square Ensign or a Banner.

(7) 13 R. 2. Stat. 2. Cap. 1.] The two Clauses of this Statute (entitul'd, in a Pardon of Murder, Treason, or Rape, the Offence committed shall be specified, the Forfeiture of him at whose Suit such a Pardon is obtain'd) necessary here to be produc'd are, *viz.* (9) and that no Charter of Pardon of Treason, nor of other Felony, pass the *Chancery* without warrant of the Privy-Seal; but in Case, where the Chancellor may grant it of his Office, without speaking thereof to the King. (10) And if he, at whose Suit any Charter of Pardon for Murder, Death, or a Man slain by await, Assault or Malice pre-pensed, Treason, or Rape of a Woman, be granted, be an Archbishop or Duke, he shall pay to the King one thousand Pounds; and if he be a Bishop or Earl, he shall pay to the King one thousand Marks; and if he be an Abbot or Prior, Baron or Baronet, (mis-written for Banneret), he shall pay five hundred Marks; and if he be a Clerk, Batchelor, or other of less Estate, of whatsoever Condition that he be, he shall pay to the King two hundred Marks, and have one Year's Imprisonment.

(8) *Henry the 7th.*] The Course of *English* Policy hitherto wandring in the different Currents, springing from the double Head of Monarchy and Democracy, and in them likewise often tofs'd up and down, partly by the blasts of windy Titles and Pretensions, and partly by the raging Tides from the *Roman* Sea, now begin to come to Anchor within view of Shore. Happy *England*; if the same prove good Harbourage for a fainting Nation. Two Kings now undertake the Steerage; the work of the first was to still the Winds, the other the Seas, and so to bring

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bring the Adventure safe home. *Henry* the 7th happen'd upon a good Preparative for this Work, in that he deliver'd the Kingdom from a Tyrant, whose irregular and bloody way was so odious to the People, that it set a foil upon his Successor's Government, and made his Wisdom, Valour, and Justice appear greater than possibly it was. His Valour made way for the other two; he had enough thereof to serve a Wise Man in case of Extremity. At other times he made more use of his Majesty, than Manhood, being Confident, that the People knew not where to mend themselves, but would be at his Devotion so long, as he was better than his Predecessors, tho' he car'd not how little. His Wisdom was his greatest Part, of which, upon all Occasions, he made the greatest Improvement he could, without reflecting upon Conscience or Religion, whereof he had tasted no more than would render him a Civil Man, whereunto his Education did lead the way. Thus, tho' his Valour brought him to the Crown, yet it was his Wisdom, that settled him in the Throne. For tho' he lov'd himself so well, that he was loth to pretend allowance of any access of Foreign Help to his own Atchievements in his Title; or that he was guilty in the least manner in his Entry upon the Throne; yet to keep Danger far off, he provided one Guard for his Person, and many for his Title. That of his Person, he only pretended as a Ceremony of State brought from the *French* Court; and yet it's strange, that it went so well down with a Free-People; for that Prince, that will keep Guards about his Person in the midst of his own People, may as well double them into the pitch of an Army, whenever he pleases to be fearful, and so turn the Royal Power of Law into force of Arms; but it was the *French* Fashion, and the King's good hope, to have all taken in the best Sense. His Title (setting aside the saying of *Philip the Hardy*, that Kingdoms only belong to them that can get them) would hardly endure the Touch, till Pope *Innocent* by his Bull, confirm'd the Crown to him, to hold by a Six-fold Right, viz. 1st, Of Inheritance; 2d, Of War; 3d, Of Espousals; 4th, Of Election; 5th, Of Gift by Parliament; 6th and lastly, Of Pontifical Benediction, which the King lik'd marvellous well; and the rather, because his Title by Marriage was buried up in the
the

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the middle, and so made the less Noise ; for tho' it was his best Guard, yet he lik'd not that it should be so reputed, lest his Title should seem rather conferr'd upon him, than gain'd by him, and so should hold by a Woman, or, at the best by the Courtesie of *England*, if the Peoples Favour should so far extend the Law in that Point, by both which he held the Honour of a compleat King to be diminished ; his Title by Inheritance is much disputable if the right Heirs of *John of Gaunt* be enquir'd after ; and much more that of War ; for altho' that brought the Possession, yet no Right or Title but by wrong ; which may indeed be Plaistered over by Election, or Act of Parliament, but then he must be Tenant to the People. As touching the Pontifical Benediction, himself took that but as a Redundancy, that might sway with the Clergy, and do his Title no hurt ; nevertheless what severally they cannot do, by joint Concurrence he accounts so fully done, as if he were a King against all the World, and more ; yet is he not sure enough, but as one jealous is more tender, so is his Eye ever upon his Title ; there is his Guard and Regard, as if it were the Out-works of his Crown, which once lost, the Crown cannot hold out long. In this Work he minded so much his Greatness, that he lost the repute of his Goodness, then casting his Eye upon the Government, and finding it of a mixt Temper, wherein, if Royalty prevails not, Popularity will ; like a good Soldier, whilst his Strength is full, he sallies upon the Peoples Liberties in regard of their Persons with such sudden Conveyance, as he taught the People to dance more often and better to the tune of Prerogative and Allegiance, than all his Predecessors had done ; nor did the People perceive it, till they were over their Shoes, and then they clearly saw their Condition, and that it was in vain for them to wrangle with their own Acts. The Legiance of Persons of the People gain'd, their Estates more easily follow ; and therefore in the former, tho' he wrought by Ambuscade, in this he may be more Brave, and charge them in the Van ; yet this he did also by degrees, first by slight Skirmishes, of borrowing smaller Sums of Money (possibly when he had no need) and paying them again, thereby to gain Credit for greater Sums, of which he intended not so sudden return.

Then

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Then he charges them home with Benevolences (a Trick gain'd in right of his Wife from her Father) for he hop'd that the Person of *Richard* the 3d was now become so abominable, as his Laws would be the less regarded. But in this Course he gain'd nothing but Wind; then (as *Edward* the 4th) he falls upon Malevolences of Penal Laws; things made in *Terrorem* to scare Men to Obedience, rather than to Compel them; but are now Executed *ad Angorem*, and the People find that he is but a Word and a Blow with them; and thus serving his Prerogative with Power, and his Purse with his Prerogative, he made all serve his own turn. *Humanitatem Omnem vincente Periculo.* (*Jovius Brit. Fol. 9.*) In the Field he always puts his Wisdom in the Van; for as he was Parcimonious in expences of Money, so much rather of Blood, if he could prevail by Wit; generally he was the first in Arms, to make Men believe he was more ready to Fight than they: Thus he many times gain'd the advantage of his Adversaries, and sometimes came off without Blows. In the Battle he did put on Courage, as he did his Armour, and would dare to adventure just as far as a General should, as if he had ever regard of his Crown, rather than of the Honour of a forward Soldier, which nevertheless was also dear to him as so he is seldom found in the Rear, altho' his Judgment Commanded in chief rather than his Courage. In the Throne he is much more Wise, because he was willing it should be known. In doing of Justice he is seldom suspected, unless when himself is Party, and yet then he is also so shamefac'd, as he would ever either stalk behind some Law, that had a semblance to his ends, or when he meant to step out of the Way, he would put his Ministers before; not so much that his fineness might be known, but his Royalty. For the Lyon hunts not its own Prey, nor is it regal for a King to be seen in catching of Money, tho' he be understood; besides it was needless, he had Lords, Bishops, Judges, and other Instruments of Malevolent Aspects, as so many Furies, outwardly resembling Men for the Common-wealth, but working for the Common-mischief; like some Picture, one way looking right, and another looking wrong; and thus the King comes lawfully by what he catch'd, tho' his Instruments did not, and must

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must be still holden for a good King, tho' it be his hard Hap to have ill Servants.

Take him now amongst the People, he is alike to all, yea, in some things that might seem to brush upon the King's own Train; for he had some of his Suit, that were not altogether of his Mind, and those he would spare to the Course of Justice, if need were; as it befel in the Case of the Duke of *Suffolk*, whom he suffer'd to be try'd at the King's-Bench-Bar, for a Murder done upon a mean Person, and by such means obtain'd the repute of a zealous Justiciary, as if Justice had been his principal Virtue. All this suited well with his main End, for he that will Milk Cattle must feed them well, and it encourages Men to gather and lay up, when they have Law to hold what they have.

His Religion I touch upon in the last place, as most proper to his Temper, for it was the last in his Thoughts, tho' many times first in the Acting; but where it stood in his way, he turn'd it behind him; he made Churchmen his Instruments, that the matter might better relish; for who will expect ought but well from Men of Religion, and then if the worst come, he was but misled by such, as in common Reason ought to be trusted; and it is his Unhappiness to meet with Clergymen to serve a Turn, and a Pope to give his Benediction to all. Nor was this Gratis, for there were as many mutual Engagements between the Clergy and him, as any of his Predecessors of the House of *Lancaster* besides.

Lastly, It may well be suppos'd, however wise this King seem'd to be, that many saw through him, which procur'd him a troublesome Reign; tho' many times occasion'd by his own interposing in Foreign Interests, wherein he suffer'd more from others than they from him. Amongst the rest the Dutches of *Burgundy* (tho' a Woman she were) mated him with Phantomes and Apparitions of dead Bodies of the House of *York*, the Scare whereof put the King and all his People in Allarm, who striking at idle Shadows slew one another. All which, together with the Appearances of Collections, Taxes, and other Accoutrements to furnish such Employments, were enough to disturb that Ease and Rest, that the King aim'd to enjoy, make him Burthensome to his People, and both himself and them weary of each other;

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other ; and so he went down to the Grave with but a dry Funeral ; leaving no better Testimony behind him, than that he was a Cunning man, rather than a Wise *English* King : And tho' he died Rich (leaving behind him in ready Money 5300000 *l.* most of it in Foreign Coins) yet is he since grown in debt to the Pen-men of his Story, that by their own excellency have rendred him a better King than he was. (Bacon's *Hist. Discourse of the Uniformity of the Government of England*, &c. Part 2.)

(9) *Divers Bannerets.*] *Viz.* Sir Gilbert Talbot, Sir John Cheyney, and Sir William Stoner, before, and 10 more after the Battle by Newark.

(1) *Antiquity.*]

Next come the Knights of the *Bath*, *Milites Balnei vel de Balneo*, who are an Order of Knights made within the Lists of the Bath, and girded with a Sword in the Ceremony of their Creation, for the Antiquity (1) and Ceremony whereof, *Vid.* Dugdale's (2) *Description of Worcestershire*, Fol. 531, 532. They are so call'd from Bathing the Night before their Creation : They take place of Knights Batchelors, but come after Baronets.

Now for those Knights simply so call'd, without any other Addition ; an Order, tho' lowest at this Day, yet of greatest Antiquity and Honour in the first Institution : The *Romans*, and our Ancestors the old *Germans*, Confer'd not this Order upon any under Sixteen

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teen Years of Age; and this *Tacitus* (*de Mōribus Germanorum*) teacheth us.

Now

(1) *Antiquity.*] The first express mention of them, as of a distinct Order, is commonly attributed to the beginning of *Henry* the 4th. He, preparing for his Coronation, made 46 Knights at the *Tower*, that were Bath'd. The Ensigns in the Creation of a Knight of the *Bath* are, besides Robes and such like, the Sword and Gilt Spurs, wherewith he is Invested after the Vigils, Bathing, and such other precedent Solemnities; all, or most part of which were antiently us'd in making of Knights Batchelours, or *Milites Simples*. These Kind of Knights have been usually Created out of the choicest of such as have not before receiv'd the Order of Knighthood, and this at Coronation or Knighting of the Prince, and such like of the greatest Solemnities at Court. The antientest Writer, that, purposely handling the nature of Knighthood, mentions this Order, is *Nicholas Upton*. (*MS. de Militia. Lib. 1. Cap. 3.* that liv'd under *Henry* the 6th.)

(2) *Dugdale* (*Sir William*) a famous Antiquary; was Son of *John Dugdale*, of *Shustock* in *Warwickshire*, Gentleman, and Born *A. D.* 1605. He was first made *Rouge-Croix*, then *Chester*, afterwards *Norroy*, and lastly *Garter*. In 1641, by the Encouragement of *Sir Christopher* (afterwards Lord Chancellor) *Hatton* he came to *St. Paul's*; transcrib'd with great exactness the Epitaphs, got all the Coats of Arms belonging to the Monuments, &c. painted, and took Draughts likewise of all the Monuments. Then he Travell'd to *Peterborough*, *Ely*, *Norwich*, *Lincoln*, *Newark* upon *Trent*, &c. in all which Places he proceeded with the same Curiosity, preserving the Monuments, &c. by this Method, which, he apprehended, might probably be destroy'd by the Disorders of a Civil War, then likely to break out. He was a Loyalist, and after the Restauration of King *Charles* the 2d, was in 1677, made *Garter*,
and

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and Knighted. He dy'd 1685, and left to Posterity these Works following, viz.

1. *Monasticon Anglicanum* in 3 Vol. Fol.
2. *The Antiquities of Warwickshire*, Illustrated from Records, Leiger-Books, &c. Fol.
3. *The History of St. Paul's Cathedral in London, from its Foundation*, &c. Fol.
4. *The History of Imbanking and Draining divers Fens and Marshes*, &c.
5. *Origines Juridicales; or, Historical Memoirs of the English Laws, Courts of Justice, Forms of Tryal*, &c. Fol.
6. *The Baronage of England*, in 2 Vol. Fol.
7. *A short View of the late Troubles of England*, &c. Fol.
8. *The Antient Usage in bearing of such Ensigns of Honour as are usually call'd Arms*. 8vo. &c.

(1) In

Now seeing these Military young Men were call'd by the old *Germans*, in their Language *Knechts* (Men arm'd with Spear and Lance, the Ensigns of their Knighthood) as they are in ours ; *Cambden* is of Opinion, that the Original both of the Name and Institution is to be deriv'd from thence. In the time of the *Saxons* (1), Knights were sometimes made by Bishops (2), Abbots, and sometimes by Priests ; the Manner whereof is in these Words describ'd to us by *Ingulphus* (3) who liv'd in those Days, whom *Cambden* (4) quotes, viz.

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Qui

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Qui Militiæ legitimæ Consecrandus esset, vespere precedente, ad Episcopum, Abbatem, Monachum, vel Sacerdotem contritus de peccatis Confessionem faceret, & Absolutus orationibus deditus in Ecclesia pernoctaret in Crastinum Rem Sacram auditurus, Gladium super Altare Offeret, & post Evangelium Sacerdos benedictum Gladium Militis Collo cum benedictione imponeret, & Communicatus Sacris Christi Mysteriis demum Legitimus miles per maneret.

And

(1) *In the time of the Saxons.*] For the Original, and name of our Knights-Bachelors; that which is before in the Knights of the Empire, and of the *Batchilers* in France is applicable enough to these of our Nation, wherein the mention of them occurs often during the time of the Saxons, that (as we must remember here) came out of Germany, and those Northern or North-West Countries adjacent to it. For in their time (if we may believe, as I think we may, that *Miles* denoted this Dignity) we have frequent mention of it. In a Charter of *Kenulph*, King of *Mercland*, of the Year 806, to the Abbey of *Crowland*: He confirms to the Abbey *Eleemosynam quam Algarus Miles, etiam dudum meus dedit Illis in Baston & in Repingale.* (*Ingulph. Pag. 854.*) The same Knight is mention'd in a Confirmation of King *Witlaf*, to the same Monastery; and there is added in this of *Witlaf*, *item donum Oswini Militis in Draitona.* And they are again with some others remembred with that Title still, in Confirmations of some of the succeeding Saxon Kings insert'd, by *Ingulphus*, who mentions also *Fernotus Miles & Dominus de Bosworth & Edmerus Miles, & Dominus de Holbroke* under King *Hardecnute*. And it occurs in the Additions of divers, that Subscribe also

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also to Charters in those Ages ; as may be seen in a Charter of *Canutus* to the Monastery of *Badrices* (that in *St. Edmond's-Bury* in *Suffolk*) and in such others, found in the Memoirs of those times, tho' some Learned Men have doubted, that in the old Transcripts and Exemplifications (for the most part we have in this Kind are such, at least if not forg'd) *Miles* might be often ignorantly made from *M.* that stood frequently for Minister ; but some have Minister for an Addition, when others follow with *Miles*, as in a Charter of Privileges to the Abbey of *Westminster*, by *Edward* the Confessor : The mention of these Knights is so obvious in the following times, that we need not further observe it. Only for the Name of *Bachelers*, we add here somewhat out of *Matthew Paris*, *ipso quoq; tempore* (saith he, speaking of the 33d Year of *Henry* the 3d) *Hastiludium Commissum est apud Brabele, ubi multi de Militibus Universitatis Regni, qui se volunt Bachelarios appellari, sunt Contriti, &c.* (*Seld. Tit. Hon.*).

(2) Were made by Bishops, Abbots, &c.] The Persons that gave this Dignity anciently, were sometimes Subjects (and these gave it without any superior Authority granted to them) as well as Sovereigns ; tho' long since it hath grown to be clear, none gives it with us but the Sovereign, or some other by his Command or Commission. But in the antienter Times both Ecclesiastical and Lay-Subjects created Knights. *Brand*, Abbot of *St. Edmund's-bury*, created one *Heward* and other Gentlemen of *Saxon* Blood, under the Conqueror. *Lanford* also Archbishop of *Canterbury*, made King *William* the 2d a Knight in his Father's Life-time, *Accessit &c favori ejus*, (saith *William* of *Malmesbury*, speaking of his coming to the Crown, *De Gest. Reg. Lib. 4. Cap. 1.*) *maximum rerum momentum Archiepiscopus Lanfrancus, eo quod eum nutrierat, &c militem fecerat.* To this making of Knights by Ecclesiastical Persons, belongs that of the Parliament of the third of *Henry* the 1st, *Ne Abbates faciant Milites*, whereby the Creation of them was denied to Abbots, as also in a Leiger of the Abbey of *Battel*, *Terras Censuales non donet (Abbas) ad Feudum, nec Milites nisi in sacra veste faciat* ; where it seems it was supposed Abbots might

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make them; as it is likewise in that of King *Henry* the 1st to the Abbey of *Reading*, which was confirm'd also by other Kings afterwards, without any Notice taken of that Act of the third of *Henry* the 1st. For Lay-Subjects, the Earl of *Gloucester* knighted his Brother (*Camb. Brit. Pag. 126.*) and *Simon* of *Monford*, Earl of *Leicester*, made *Gilbert* of *Clare* a Knight. (*Matt. Paris Pag. 1329. Edit. Londin. sine 1350.*) *John* Duke of *Bedford* also gave the same Dignity to King *Henry* the 6th. (*Stow. Annal. Pag. 604.*) And *Edward* Earl of *Somerset* to King *Edward* the 6th. (*Idem Pag. 1000.*) But supream Princes might even take it as well from their own Subjects as from other Princes. (*Matth. Paris, Pag. 1104. ubi de Alex. Reg. Scotie.*) Other Examples also might be given. The Persons likewise that receiv'd it, were not only of the Laiety, but sometimes of the Clergy. Amongst those of the Laiety, Kings themselves, as well as inferiour Lords, (as is before touch'd) took it for an Accession of Honour to them. And Clergymen of Eminency, that were willing to leave their Spiritual Cures, and betake themselves to Secular Employment, upon Resignation of their Benefices, were sometimes honour'd with it; and it seems that Resignation was to be exacted of them, before they might receive it. So I conceive from that of *Matthew Paris*, speaking of King *Henry* the 3d's Knighting of Sir *John de Gatesden* a Clergyman, *Die natali* (saith he, 29 *H. 3. Pag. 880. Edit. Lond.*) *Joannem de Gatesden Clericum, & multis ditatum Beneficiis, sed omnibus ante expectatum resignatis, quia sic oportuit Balneocina & Militari.* Nay,

Ashmole, in his History of the Order of the Garter, having given an Account of all the Religions, and Military Orders of Knighthood, takes Notice, that this Honour has been sometimes granted to Women. He instances in the Women of *Tortosa* in *Arragon*, and cites *Joseph Micheli Marquez*, who calls them *Cavellero's* or Knights, equivalent to the Words *Equitissa & Militissa*, formerly applied as a Lady's Distinction. To proceed a little in this History, we may observe that *Don Raymond*, last Earl of *Barcelona*, having in the Year 1149, recover'd the City of *Tortosa* from the *Moors*, they on the 31st of *December* following invested the Place. The Burghers at last,

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last being hard press'd, sent to the Earl for Assistance, but he not being in a Condition to raise the Siege, they began to think of a Surrender. The Women being inform'd of their Design, put on Men's Cloaths, and making a Sally with great Bravery, forc'd the *Moors* to rise from before the Town. The Town being preserv'd to the Earl by the surprizing Courage of the Women, he granted several Privileges and Immunities to perpetuate the Memory of so extraordinary an Exploit. To this Purpose, he instituted a kind of Military Order, into which those brave Heroines were only admitted. And to make the Acknowledgment the more considerable, the Honour was settled upon their Descendants. The Badge of their Distinction was somewhat like a Friar's Capouch, sharp at the Top after the Form of a Torch, and of a Crimson Colour, This was to be worn upon their Head-cloaths. The Earl likewise made a Law, that at all publick Meetings and Entertainments, the Women should have the Precedence of the Men, that they should be exempted from all Taxes, and that all the Wardrobe and Jewels, left by their Husbands at their Decease, should be their own. Thus these Women having acquired this Honourable Distinction by their Personal Bravery, liv'd up to the Port and Pretensions of the Military Knights of those Days. And here it may not be amiss, to throw in a Word or two of another Ornamental Distinction made peculiar to this Sex: 'Tis that of the *Cordon*, which some will have to be an Order, or at least to be somewhat equivalent. The Institution of it is assign'd to *Ann* of *Britain*, Queen to *Charles* the 8th of *France*, who instead of the Military Belt or Collar, bestow'd a *Cordon* or Lace on several Ladies, exhorting them at the same Time, to live up to the Rules of Sobriety and Devotion, and to be always mindful of the Ties and Engagements of Christianity. And to make this Favour the more valid, she surrounded her Escutcheon of Arms with a Cordon of the same Fashion. From this Precedent, it has been since Customary to Ornament the Arms of unmarried Ladies, and Gentlewomen with such a Cordon. (*Ashmole's Institution, &c. of the Most Noble Order of the Garter.*)

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The Ceremonies and Circumstances at the giving this Dignity in the elder Times were of two Kinds, especially, which we may call Courtly and Sacred. The Courtly were the Feasts held at the Creation, giving of Robes, Arms, Spurs and the like, whence as in the Stories of other Nations, so in those of ours, *Armis Militariibus donare*, or *Cingulo militari*, and such more Phrases are the same with *Militem facere*, or to make a Knight. The sacred, are the Holy Devotions, and what else was used in the Church at or before the receiving of the Dignity, whence also *Consecrare militem* was to make a Knight. Those of the first Kind are various in the Memoirs that preserve them, and yet they were rarely or never without the Girding with a Sword, until in the latter Ages, wherein only the Stroke on the Neck or Shoulder, according to the Use at this Day, hath most commonly supplid it. The Antientest mention of any courtly Ceremonies us'd at the Creation of a Knight with us, is in that of King *Alfred* his Knighting his Grandchild *Athelstan*, that was afterwards King. Here was a Purple-Robe and a Sword given. In the Stories of the following Times, often mention is of making Knights, but other Ceremonies of the Court, besides Feasts, and the giving of Arms, or the Girding on the Sword, (and those generally expressed) are but seldom remembred.

Therefore we collect here for the most Part according to the Course of Time, such Testimonies as shew them somewhat more in Particular, with the Preparations for them, and other Circumstances belonging to them.

Henry the 1st proposing before the Marriage of his Daughter *Maud* the Empress to *Geoffrey* of *Anjou*, to Knight him at *Roan* in 1127 on *Whitsunday* following, desires the Earl his Father, *ut Filium suum nudum Militem* (or being but yet a young Gentleman or *Damoyseau* or *Domicellus*, as they call'd such) *ad ipsam imminentem Pentecostem, Rothomagum honorifice mitteret, ut ibidem cum coaequalis suis Arma suscepturus Regalibus Gaudiis interesset*: This young Gentleman with five more of the like Quality, attended by 25 Esquires, were bathed according to the antient Custom (saith *Dufavin* of *France*) and then coming in Robes proper for the Ceremony, received the Dignity by having Horse and Arms given them.

And

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And there were put on *Geoffrey of Anjou*, Harness of double Mail, and guilt Spurs, a Shield of the Lions of *Anjou* was hung on his Neck, a rich Helmet put on his Head, and an arm'd Spear put in his Hand, and last of all a Sword was brought him out of the King's Store : Thus arm'd, he mounted a *Spanish Horse*, that was also at first given him by the King, and the Feast that belong'd to this receiving the Dignity (or the *Festum Tyrocinii*, as the like is often call'd in the Monks) continu'd seven Days, being honour'd with Tournaments and Masques. (27 *H. Fav. in Theat. Hon. Lib. 3. Pag. 577.*)

And when *Thomas Sturmei* was to receive this Dignity from King *John*, the Sheriff of *Hampshire* was commanded to deliver him Robes, Bed, Sheets, and other such Furniture against the Time of his Creation, as they are reckoned up in the Writ sent to that Purpose. (*Claus. 6. Reg. Joh. Dorf. Rot. 20.*) King *Henry* the 3d Knighted *Alexander* the 3d King of *Scotland*, on *Christmas-day* at *York* in 1252, and twenty more with him. (35 *H. 3. M. Par. Pag. 1103. Edit. Lond. quem etiam vide Pag. 1000. & Cambd. Brit. Pag. 126.*) This was the Day before the Marriage of the Lady *Margaret*, Daughter of *Henry* the 3d to him, when the Earl Marshal demanded as his Fee the King of *Scotland's* Horse and Furniture : But the King of *Scotland* answer'd, that he conceiv'd no such Fee could be due to the Earl Marshal from him, because at his own Pleasure he might have receiv'd his Knighthood, either from any other Catholick Prince, or from any of his own Subjects, being Gentlemen ; if at least *Nobiles* may be taken in the Relation of it for Gentlemen, and not for Noblemen, as according to the *English* Phrase it often is ; thereupon by the King's Command the Matter was at Peace. The putting on of Spurs is also remembred in that of Knighting Sir *Richard Rodney* under King *Edward* the 2d, *Anno* 1316. It is commonly supposed that their Spurs were guilt, as *Nicholas Upton*, who liv'd and wrote under *Henry* the 6th, also telleth us, whence (as in other Nations) they have the Names of *Equites Aurati*. That of Judge *Thirning* also which he spake on the Bench under *Henry* the 4th is observable here. I have heard (saith he, 7 *H. 4. Fol. 8. & Fract. Tit. Addition. 17.*) that a Lord had Issue a Son, and carried him to the Font,
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and presently, as soon as he was baptiz'd, took his Sword and made him a Knight. Here we see the Use of the Sword only (which it seems was by a gentle Stroke with it) in the Creation. The Stroke was in that Sort to be given with a Sword (deliver'd to the King or his Lieutenant, that had Power of Creation, by him that was to be created) and that with both Hands; and the Name of Knight also to be impos'd at the giving it, and an ancient Knight to be assign'd, that should put on the Spurs on the new Knight, and perform a Vigil with him the next Night. But in the latter Ages, only a gentle Stroke with the Sword on him who is to be Knighted kneeling, with the Words, *Avancez Chivaler au nom de dieu*, & *avancez Chevaler* or the like, spoken or manifested by the King, or those that have Authority from him, are the usual Ceremonies. The known Title of Sir prefix'd, with us, to the Christian Name in Compellations and Expressions of Knights so created is very antient, and in *Edward* the 1st's Time, was so much taken to be Parcel of their Names, as that the *English* Jews in their *Hebrew* Instruments or Stars (as they are call'd obviously in the Records, from the *Hebrew* Word *Shetar*, which they then pronounc'd Star) retain'd it, and wrote it Sir, without interpreting it by any of their own, as they do, who in *Latin* express it by *Dominus*. An Example of it in the Names of Sir *Adam* of *Stratton*, and of Sir *Stephen* *Cheinduit*, is in a Star or Release of *Chajim*, a Jew of *Lincoln*, among the Records of the *Exchequer*. This Dignity of Knighthood occurs also sometimes, as if given by Patent. (*Seld. Tit. Hon.*)

(3) *Ingulphus*.] An *Englishman* born at *London* in 1030. his Father was one of *Edward* the Confessor's Courtiers. *Ingulphus* was first educated at a School in *Westminster*, and afterwards at the University of *Oxford*, where he principally applied himself to the reading of *Aristotle* and *Tully*. In the Year 1051. *William* Duke of *Normandy*, coming into *England*, for an Interview with King *Edward*, *Ingulphus* was made known unto him, attended him into *Normandy*, and was made his Secretary and principal Favourite; but fearing the Interest he had with so great a Prince, might procure him Envy, he retir'd from

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from Court, and went in Pilgrimage to the Holy-Land : At his Return he turn'd Monk, and was soon after made Prior of the Abbey of *Fontenels* in *Normandy*. In the Year 1076. *William* Duke of *Normandy* having gain'd the Kingdom of *England*, sent for him over, and made him Abbot of *Croyland*. By the Interest he had with the King and *Lanfranc* the Archbishop ; he was very serviceable to his Monastery. He died in 1109. He wrote the History of the Monastery of *Croyland* from the Year 664 to 1091. This History was published at *London* by Sir *Henry Savil* in 1596 ; but the *Oxford* Edition of 1684. is much more enlarg'd and correct. (*Collier's Great Hist. &c. Dict.*)

The Relation in *Ingulphus* of the Sacred Ceremonies, anciently us'd, in giving the Dignity of Knighthood with us (as being in Use with the *English-Saxons* before his Time), is upon the Occasion of *Brand*, Abbot of *St. Edmund's-bury*, his Knighting of *Heward*, an *English* Gentleman of *Lincolnshire*, and Lord of *Brume* in that County, together with some other such as upon his Return out of *Flanders* (where he had liv'd in Exile by Judgment against him under *Edward* the Confessor) he had gotten to be of his Part for the Recovery of his Inheritance, which the Conqueror had, after the Death of his Father given away to one of his *Normans*, and also for the Rescue of his Mother from the Sufferings in the common Calamity, which by that Foreign Nation was then brought upon most of the *English*. (*Seld. Tit. Hon.*)

(4) *Camb. Brit. lat. Edit. 8vo p. 105.*

(1) *Lan-*

And thus the Noble *Herewardus*, who gave the *Norman* so strong a Diversion, was Knighted. And even after the *Norman* Conquest, in the Reign of *William* the 1st, *William Rufus* his Son was not Knighted by his Father, but
by

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by *Lanfrank* (1) Archbishop of *Canterbury*, as *Malmesburiensis* (2) and *Matthew Paris* (3) inform us. But this Custom (4) as *Ingulphus* saith by Degrees grew obsolete, from the Time that it was ridiculed and exploded by the *Normans*; and a Synod (5) was held at *Westminster* in 1102. which decreed that Abbots (6) should not create Knights. At present (saith *Cambden* (7.) he who is to be Knighted, *Flexis genibus educto Gladio leuiter in humero percussitur, Princepsque his verbis gallice affatur, Sois Chevalier au nom de Dieu i. e.* Be thou a Knight in the Name of God; & *etiam Avancez Chevalier, i. e.* Rise up Sir Knight.

Formerly

(1) *Lanfrank.*] *Lanfrancus* an Italian, born at *Pavia*, was Famous in the 11th Century. He was a Benedictine Fryar, of the Abbey of *Bec* in *Normandy*; afterwards Abbot of *Caen*, and lastly Arch-bishop of *Canterbury* in 1070. He disputed against *Berengarius* in the Council held at *Rome*, 1059, under Pope *Nicholas* the 2d, concerning the real Presence in the Eucharist, and writ against him a Book concerning the Body and Blood of our Lord, which *Don Luc d'Achery*, a Benedictine Publish'd in 1647, together with some Commentaries of his on the Epistles of St. Paul, Notes upon some of the Conferences of *Cassian* a Book of Letters, &c. The Curious may Consult his Life at the beginning of his Works. He liv'd in great esteem with the King's and Popes of his Time, and died *May* the 24th, 1089. having governed the Church of *Canterbury* 19 Years. The first Year after his Consecration, *Thomas* Archbishop of *York* came, according to Custom to be conse-

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consecrated by Archbishop *Lanfranck*. But *Lanfranck* demanding an Oath of Canonical Obedience from him, in Writing, according to the Custom of his Predecessors, *Thomas* refus'd to make such an Acknowledgment, unless *Lanfranck* could produce Records to prove his Claim: *Lanfranck* produc'd Evidence, but the other Archbishop however refus'd to comply. This Controversy was afterwards determin'd in Favour of the See of *Canterbury*. First by the Pope, and afterwards by King *William* the Conqueror, in his great Court at *Windſor*; so that *Thomas* was at last contented to make the Submission required. This *Lanfranck* built several good Churches, in the Manors belonging to his See, was a very publick spirited Man. (*Dr. Brady's Hiſt. of Great Britain, &c.*)

(2) *Malmesburiensis* writ the History of the *Saxon* Kings and Bishops before the Conquest, and after it till his own Time, and was Chanter and Library Keeper of the Church of *Malmesbury*, in *Lat. Maldunense Canobium*, a Market and Burgh-Town in *Malmesbury* Hundred, in the North-west of *Wiltshire*, situate on the Western Bank of the River *Avon*, on the Confines of the County of *Gloucester*. This Town took its Name and rise from *Maidulph*, a learned *Irish Scot*.

(3) *Matthew Paris*, a Benedictine Monk belonging to the Monastery of *St. Alban*, living to the Year 1259, and accounted one of the greatest Men for Learning and Ingenuity in his Time, being a considerable Historian. He calls his History *Historia Major*, which he divided into two Parts; the first begins with the World, and reaches to *William* the Conqueror. The second begins with the Conquest, and is carried on to 1250, which he afterwards continu'd to 1259. in which Year he died. A Monk of the same Monastery continu'd this History to 1272 or 73. that is to the Death of King *Henry* the 3d. *Matthew Paris* abridg'd his *Historia Major*, which Abridgment he call'd his *Historia Minor*, and writ several other Treatises,

(4) But

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(4) *But this Custom.*] But this Form of receiving of Knighthood, was (as *Ingulphus* saith) much dislik'd by the *Normans*. The Words of that Author are, *Hanc consecrandi militis consuetudinem Normanni Abominantes, non militem legitimum talem tenebant, sed socordem Equitem & Quiritem degenerem deputabant*; and he says also, that they chang'd it, *Non tantum hunc morem, sed alias etiam Consuetudines immutabant*; but whatsoever he meant by their changing of it, the offering of the Sword at the Altar, and other of these sacred Ceremonies continu'd in the following Ages. This offering of the Sword, with some of the rest of the sacred Circumstances belonging to it, was it seems us'd also in the Vigil held at *Westminster* and the Temple, under *Edward* the 1st, before the Dignity receiv'd, in that Example of *Geoffrey d'Anjou*; the Vigils being (as I think), but a general Name to express the sacred Ceremonies, which preceeded the Knighting done by the King, and his Son Prince *Edward*. To which may be added that of the *Benedictio Ensis Novi Militis*, which is commonly found in the Manual (or Common-Prayer-Book of the Elder Ages), among other Rites of the *English* Church before the Reformation, (*Manual, Antwerp. Ed. Fol. 49. Seld. Tit. Hon.*)

(5) *Synod.*] This *Cowel*, *Collier*, and *Nelson* shall explain. *Synodus* is a Meeting or Assembly of Ecclesiastical Persons concerning Religion, whereof there are four Kinds: 1. General, where Bishops, &c. meet of all Nations. 2. National, where those of one Nation only come together. 3. Provincial, where they of one only Province meet. 4. Diocesan, where those of but one Diocese meet. *Synod* and *Convocation* are both one, except that the first is a *Greek*, and the latter a *Latin* Word. (*Cowel's Interp.*)

Synodals and *Synodales Testes* being Appendants to *Synods*, I shall take Notice of them too. *Synodal*, *Synodale*, is a Tribute in Money paid to the Bishop or Archdeacon, by the inferior Clergy at *Easter* Visitation; and it is called *Synodale*, *quia in Synodo frequentius dabatur*. These are call'd otherwise *Synodies* in the Statute of 32 *H. 8.* yet in that of 25 *H. 8.* *Synodals* Provincial seem to signify the Canons or Constitutions of a Provincial *Synod*. And sometimes *Synodale* is used for the *Synod* it self. (*Cowel's Interpr.*) Syno-

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Synodales Testes, the Urban and Rural Dean were at first so called, from informing and attesting the Disorders of Clergy and People in the Episcopal Synod: But when they sunk in their Authority, the Synodical Witnesses were a Sort of impanell'd Grand-Jury to inform of or present Offenders, a Priest, and two or three Laymen for every Parish. At last two principal Persons for each Diocese were annually chosen, till by Degrees this Office of Inquest and Information was devolved upon the Churchwardens. *Synodale Juramentum* was the solemn Oath taken by the said *Testes*, as is now by Churchwardens to make their Presentments. (*Ibid.*)

Collier speaks next, Synods Diocesan, saith he) having been for some Time disused in *England*, I shall give the Reader a short Account of them: And here, in the first Place, It has been the constant Sense of all the ancient Councils and Fathers of the Church, that the Bishop of every Diocese has by Divine Commission, Power to govern his Diocese, and in Order thereunto to convene his Presbyters under him. How often every Bishop was obliged to hold his Diocesan Synod, the Canons of the Church inform us; which sometimes ordain'd that these Councils should be held twice a Year; and if any Clergyman did not come thither once a Year, unless hinder'd by Necessity, he was suspended from officiating. The common Direction of the Common Law appoints the Meeting to be once in the Year; and this *Linwood* seems to deliver as the Rule of our Church too, and there's this Reason to believe that by this Time it was become so, because when the Reformation was made of the Ecclesiastical Canons then in Force in this Church, this was the Proportion intended to have been continued by those who were order'd to review the Canons.

To this Synod all the Clergy who had any Benefice within the Diocese were obliged to come, and so were the Regulars too, as well Abbots as Monks, excepting those that in Process of Time were exempted from Episcopal Jurisdiction.

If the Diocese was small, and had but one Archdeaconry in it, the whole Clergy met together at once. If it were more large, the Bishop sometimes divided his Synods according to the Number of the Archdeaconries, and held

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held his Dioceſan Council at ſeveral Times, and in ſeveral Places; but ſtill the Method of Proceeding in Buſineſs was the ſame in all.

The Form of holding theſe Synods is as follows, *viz.* The Clergy in ſolemn Proceſſion came to the Church, where they were to meet at the Day and Hour appointed by the Biſhop, and ſeated themſelves according to the Priority of their Ordination, then the Deacons and Laiety were admitted; the Biſhop (or in his Abſence, his Vicar) being come in, and the Prayers for the Occaſion ended, made a ſolemn Exhortation to them, then a Sermon was to be preached, after which, if any Clergyman had any Complaints to make, or any Thing elſe to offer, he was heard by the Synod.

The Complaints of the Clergy being over, the Laiety in the next Place, were permitted to make theirs. Then the Biſhop propoſed his Dioceſan Conſtitutions to them. After which, if nothing further remain'd to be done, he made a long Synodical Exhortation by way of an Injunction to his Clergy, and ſo all concluded with ſolemn Prayers ſuitable to the Buſineſs.

The Form at the Conclusion of the Firſt Day, call'd, *Benedictio prima Diei* was this; *Qui diſperſos Iſrael congregat, Ipſe vos hic & ubique cuſtodiat, Amen. Et non ſolum vos cuſtodiat, ſed omnium ſuarum Cuſtodes Idoneos efficiat. Amen. Ut cum ſummo paſtore Chriſto de Gregum ſuorum Paſtione Gaudeatis in calo. Amen. Quod ipſe parare dignetur, &c.*

The Benedictions, as they were called, of the other two Days, were much to the ſame Purpoſe. For the Diſpatch of the Buſineſs of theſe Synods, the common Time allowed, as has been hinted, was three Days; and a ſeveral Rubrick was ſettled to direct the Proceedings in each of them: But if the Buſineſs of the Synod could be done in a ſhorter Time, the Aſſembly was to continue no longer, than was neceſſary.

Having now given a ſhort Account of the Time, Perſons and Manner of holding theſe Synods, I ſhall in a Word or two mention the Buſineſs tranſacted there,

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The first thing that was done on these Occasions, was for the Bishop, to make his Synodical Enquiries, of which the antient Forms are still extant; then the Synodical Causes were heard; every one who had any proper Complaint to make, was permitted to speak, both Clergy and Laity.

Secondly, In these Synods, the Bishops us'd to report to their Clergy, what had been decreed in the larger Synods of the Province; to charge the Clergy to have a Care of their Ministry; and lay before them the main Branches of their respective Duty and Business; And,

Lastly, The Bishop Publish'd his own Diocesan Constitutions; which being read and agreed to by the Synod, were from thenceforth in Force, within the Diocess; provided they were not contrary to the Decrees of some Superior Council of the Province; of these we have several Collections already Publish'd in the Volumes of our Councils, and many more are still remaining in the Registers of our Churches. To Conclude, the use of these Diocesan Synods were continu'd in *England* to the Reign of King *Henry the 8th.* (*Collier's Great Hist. &c. Dict.* and his *Eccles. Hist.*)

Nelson (in his Rights of the Clergy, &c.) gives us this Account of Synods. A Synod (saith he) is a Meeting of Ecclesiastical Persons for the Causes of Religion; and it comprehends the Provincial Synods of every Metropolitane, and the Diocesan of every Bishop within their Limits.

And these are not of that Authority, as General Councils; nor do their Canons oblige the whole Christian Church; but only that Nation where they were made; but if such Canons were agreeable with the Scriptures, and confirm'd by General Councils, they are in Force every where.

I shall not make a large Discourse of these Assemblies, because they are now almost disus'd, and therefore shall only acquaint the Reader that the most famous Councils have been held at *Africa, Britain, France, Germany, Italy* and *Spain.*

It would make a very large Volume to treat particularly of those Synods, which have been held in each of those Places; therefore I shall confine myself to those which were assembled here in *Britain*; and as to that Matter, I find that a Synod

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Synod was held here at *Winchester*, in the time of King *Edgar*, in which Arch-bishop *Dunstan* presided.

There was another held at *Oxford*, wherein Arch-bishop *Langton* was President, who Divided the Bible into Chapters; and in this Synod many Constitutions were made for the better Government of the Church.

Another at *Clarendon* under Arch-bishop *Becket*, in the Reign of *Henry* the 2d, in which some Decrees were made concerning the Prerogatives of the Crown, and the Privileges of the Clergy.

Two in the Reign of *Edward* the 6th. In the One, the 29 Articles were confirm'd; and in the other, the *English* Liturgy was compos'd by 7 Bishops, and 4 Doctors of Divinity.

And here I cannot but take notice that Provincial Synods were to be held twice every Year; this Appears by the Apostolical Canons, and likewise those made in the Council of *Nice*.

But this being found too hard a Task for Bishops, who were usually Men in Years, especially where the Provinces were large, it was diffus'd about the middle of the 5th Century; so that some Canons were made for Synods to be held once in a Year; but not abrogating the antient Custom to hold them oftner, and this continued for many Ages; but at last this came in like manner to be neglected; and thereupon, about the middle of the 14th Century, another Canon was made in the Council of *Basil*, for a Triennial Synod of all the Bishops of every Province; and in the same Council there was another Canon for every Bishop to hold a Diocesan Synod once in a Year.

And even here in *Britain*, by the antient Constitution of this Church, a Synod was to be held once a Year, which is now discontinu'd, and thus the Authority of Examining things thro' the Province devolv'd on the Arch-bishop.

In a Diocesan Synod the Bishop always presided, and he usually Summon'd *Septem a Plebe* in every Parish in his Diocess, to whom he administred an Oath, to enquire into the State and Condition of each Parish, relating to Ecclesiastical Affairs, which were call'd *Testes Synodales*; and these Men made their Presentments in Writing, or *Viva voce* in the Synod.

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And at these Meetings there was a pecuniary Tribute paid by the inferior Clergy to the Bishop, which is call'd a Synodal, because it was usually paid at those Synods, but not always; for it was paid likewise at *Christmas* and *Easter*, and sometimes at the Bishop's Visitations; and it differs from Procurations, for those are Pensions, but *Synodals* are *Census* or Tributes.

This Tribute was afterwards demanded by Arch-deacons, and Deans, not *jure Communi Ecclesiastico*, but by Composition between the Bishop and them; and since Synods have been discontinued, this Tribute is usually paid to them at Visitations, and claim'd by Arch-deacons for their *Easter* Visitations; it seems to be a Contribution towards their Charges in Synods, for they were Elected by the Deacons, and were their Representatives at such Assemblies.

'Tis now become a Church Due, of which the Act of 34 *Henry* the 8th takes notice, and provides for the Recovering of it, where 'tis denied or neglected to be paid; and 'tis reasonable it should be so, because 'tis valu'd in the King's Books, and he receives a yearly Tenth out of it. And if it had not been for this Act, some are of Opinion, that where Rectories are Improprate, there had been no Remedy to Recover Synodals, which was usually done in the Spiritual Court; but now such Rectories being made Lay Fees by the Impropration, those Courts have no Jurisdiction in such Cases, if it had not been otherwise provided by that Law.

The Act sets forth that Synodals due out of Religious Houses dissolv'd, shall be paid to Bishops and Arch-deacons, by the Occupiers of those very Lands, if Ecclesiastical Persons were seiz'd thereof within 10 Years before their Dissolution; and if in Suit in the Spiritual Court, the Defendant shall be Convict, the Plaintiff shall recover the Value thereof in Damages; together with Costs of Suit; the like he shall recover at Common-Law, when the Cause is determinable there. And from hence some infer, that Synodals are due by Act of Parliament, and not *ratione Visitationis*.

(6) *Abbots.*] *Abbat* or *Abet*; *Abbas* in *Latin*, in *French*, *Abbé*; *Saxon*, *Abbud*, is a Spiritual Lord, having

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ving the Rule of a Religious House, according to our Common Law. *Sicilian Linguists* derive it from the *Syriack*, Abba Father. (Justinian's *Novel Constitut.* 115. *Sect.* ὑπολειον) terms him *Archimandrita*; others *Coenobiarcha*, or *Archimonachus*. (Hottoman in *Verb. Feuda.*) Of these, some here in *England* were Mitred, some not. (Stow's *Annals*, Pag. 442.) Such as were Mitred were exempted from the Jurisdiction of the Diocesan, having themselves Episcopal Authority within their Limits, and were also Lords of the Parliament. Of this Kind, thus saith *Corasius*; *Aliqui Abbates habent jurisdictionem Episcopalem, ad Quos cum Ecclesia pleno jure pertineat, in eorum Monasteriis Episcopus nihil exercet.* And these were call'd Abbots Sovereign. (9 R. 2.) and Abbots General, as *Fern* (in his *Glory of Generosity*, Pag. 126.) noteth. The other sort were subject to the Diocesan in all Spiritual Government; and as Abbots, so were there Lords Priors also, who both had exempt Jurisdiction also, and were Lords of Parliament, as Sir *Edward Coke* makes out, *De jure Eccles.* Of which Lords, Abbots, and Priors that sat in Parliament some reckon but 26, but Sir *Edward Coke* says, they were 27 Abbots and 2 Priors (*Co. Sub. Lit.*) in the Parliament 20 *Richard* the 2d, there were but 25 Abbots and 2 Priors. But 4 *Edward* the 3d more are nam'd in *Mon. Ang.* to which the Reader is referr'd. Such an Abbot, with the Monks of the same House being call'd the Convent, made a Corporation; but such Abbot was not Chargeable by his Predecessor's Act; but by their Common Seal, or for such things as came to the Use of his House; neither for the Debt of his Monk, before his Entry in Religion, tho' the Creditor had a Speciality. (*Cowel's Interp.*)

(7) 80. Edit. Britan. Pag. 105.

(1) Walworth.]

Formerly Knights were made only out of the Order of Soldiers, no other Profession being taken in. The first Tradesman or Citizen who was

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was Knighted, was Sir *William Wallworth* (1) Lord Mayor (2) of *London* (3), who was Knighted by King *Richard* the 2d, for his eminent Service in Suppressing a Rebellion, by killing the Rebel *Watt* (4) *Tyler* (5) in *Smithfield* (6) with his own Hand.

'Twas

(1) *Wallworth*.] *Woorth* (as it is us'd for a Termination of a Place's Name, or a Surname) *Verstegan* ranks amongst other Terminations of the Surnames of our Antient Families. Herein (saith he) do end the Surnames of *Southworth*, *Walworth*, and others. It signifieth not *Woorth* as we now use it for Value, altho' it be now so written; but antiently it was *Wearth* and *Weard*, whereof yet the Name of *Werd* remaineth to divers Places in *Germany*, as *Thonawerd*, *Kyserwerd*, *Bomelswerd*, and the like; and in *England* to the same Sense and Signification the Names of *Taurworth*, *Kenelmeworth*, and the like. A *Wearth* or *Werd* is a Place scituate between two Rivers, or the Nook of Land, where two Waters passing by the two sides thereof do enter the one into the other; such Nooks of Ground having of old time been Chosen out for Places of Safety, where People might be Warded or Defended in. It is also sometimes taken for an Isle or Peninsula, not in the Sea, but in fresh Waters. Our Name of *Wears* in Rivers is also hence deriv'd. (*Verstegan*.)

(2) *Lord Mayor*.] This Honourable Name of Office in the chief and most famous City of our Realm, is divers ways written; some write it *Major*, some *Mayor*, and some *Maire*; and because *Major* in *Latin* signifieth Greater or Bigger, some not looking any farther will needs from thence make it *Major*. But seeing the Names of Sheriff and Alderman cannot be drawn from the *Latin*, why should it be thought that *Mayer* cometh from *Major*? Certain it is, that as the other Names of Offices are not

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derived from the *Latin*, no more is this; but the Name Originally cometh from the *Teutonic*, as do the afore noted others: It is in the Netherlands well known, where not only the chief Magistrate of *Lovain* (the antientest great Town of *Brabant*) is call'd *Meyer*, but almost every Country Town hath an Officer so call'd; as in like manner, divers of our Country Towns in *England*, as well as our Cities have. So it is likewise a Name of Office in the Country Towns of *France*, there now written *Maire*, and coming first to be known among them by the *German Franks*, the Ancestors of *Frenchmen*; for the Etymology thereof we are to note, that as in our *English* to *May*, signifyeth to have Power or Might, so a *Mayer* is as much as to say, an Haver of Might, one that hath and may use Authority. (*Verstegan's Restitution of Decay'd Intelligence.*)

A *Mayor* (according to *Cowel*) is the chief Magistrate of a City, and antiently among the *Britons* call'd *Meyr*, which is deriv'd from the *British* Word *Miret*, which signifies *Custodire*, to Keep and Preserve; and not from the *Latin Major*, Greater. *Anno.* 1189, *Richard* the 1st chang'd the Bayliff of *London*, into a *Mayor*, and by that Example 1204, King *John* made the Bayliff of *Kings-Lyn* a *Mayor*, while *Norwyck* obtain'd not the Title till the 7 of *Henry* the 5th, 1419. See more of this Word in *Spelman's Glossary*, of all the *Mayors* in *England*, none but the *Mayor* of *London* (so great is his Magistracy) and of later times the *Mayor* of *York*, bear the Title of Lord.

(3) *London.*] Is the Epitome of *England*, the Seat of the *British* Empire, the chiefest Emporium or Town of Trade in the World, and to describe all things in it worthy to be known, would make a Volume. The City of *London*, with the Suburbs and Parts adjacent, is from *Lime-House* in the East, to *Tuttle-hill-Street*, *Westminster*, 7 *English* Miles and an half; and from the farther End of *Blackman-Street* in *Southwark* to the End of *Shoreditch*, North and South 2 Miles and an half. It is Recorded that it was Built about the Year from the Creation 2855, and 1108 Years before the Nativity of our Saviour: It hath suffer'd many Disasters by Fire: But the most Dreadful was in *Sept.* 2, 1666, which began about 1 a-Clock in the Morning, in a *Baker's House* in *Pudding-Lane*, near *Fish-Street-Hill*,

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Hill, which rag'd extremely, being blown by a strong *North-East* Wind, which in 4 Days burnt down 13200 Houses, 89 Parish Churches, the Cathedral of *St. Paul*, the *Royal Exchange*, the great *Guild-Hall*, several City Gates, and Magnificent Halls of Companies, with the loss of such vast quantity of Goods, Household Stuff, &c. as in the whole was computed to be 9 Millions and 9000 Pounds; and yet by divine Mercy not above 7 or 8 Persons were burnt in this Conflagration.

Watt.] *Wats*, *Watson*, *Watkins* and *Watkinson*, &c. are Derivatives of *Walter*. This being a Name of Office, *Verstegan* places it amongst the Names of Offices; and in that Division of his Book he thus speaketh of it (*viz*) *Walter* (saith he) is in effect as much to say as a *Forrester*: *Forest* and *Walt*; sometimes also written *Wald* being all one, and joyn'd in one in our Name of *Walt-ham Forest*: The *Hercynian Forest* in *Germany* bearing at this Day among the *Germans* the Name of *Swartzwalt*, *i. e.* The *Black Forest*; for *Walt* with the *Germans*, the *Netherlanders* write and pronounce *Wout*; and of their *Wout* cometh also our name of *Wood*; so as *Forest*, *Walt* or *Wald*, as also *Weald* (for so in *Kent* it is call'd) and *Wout* and *Wood*, is all one; and *Walter* being the Name of the Officer or Commander therein, is with us become a proper Name, as also in the *Netherlands*; where after *Wout*, they write it *Wouter*. (*Verstegan*.)

(5) *Tyler* and *Straw*.] Names which these Generals of the Mob gave themselves in Derision of Persons of Quality. It will not be amiss to give the Reader an Account of the Occasion of the Rebellion, whereof *Watt Tyler* was Head, as also of the Progress and End thereof; which last happen'd by the Death of the aforesaid Ringleader.

The Parliament, holden at *Northampton* in the 2d Year of King *Richard's* Reign, had assess'd a great Subsidy for the Maintenance of his Wars beyond the Seas (*viz.*) Half a Mark upon the Head of every Religious and Ecclesiastical Person, both Man and Woman; and one Shilling (tho' *Polvdore* being deceiv'd himself, and deceiving such as follow him, says that it was but a Groat) upon the Head or Poll of every Layman and Woman, married or unmarried. The reason why the Clergy bore the greatest share

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of this Tax, was, because they had more than their Share of the Nation's Revenues, (*viz.*) one third part thereof. The Collection of this Poll-Tax was at first committed to such as had Pity of their poor Neighbours, and spar'd them : So that when the Money was come into the Treasury, certain Cormorants of the Court found fault with the smallness of the Sum, and therefore Offering unto the King a great piece of Money for that, which was (as they said) uncollected, they pray'd Commission from him to Ask and levy it. The young Prince, that had not yet read in the Old Poet, that he was the Shepherd of his People, and that it was his Part to Fleece, but not to Flea his Flock, assented to their Desire ; and they forthwith came down into the Country, made their petty Collectors in every Quarter, and with great Extremities rak'd much Money from the miserable People. Amongst the rest one naughty Fellow dishonestly intreated a young Damsel, the Daughter of one *Watt Tyler* of *Debtford* in *Kent*, by turning up her Coats to see if she were of full Age to pay ; which thing when the Father heard, he fell at Words with the Officer, and from Words to worse, so that in the end he slew him : This done, the Common People of the Town, partly for Grudge of the Imposition, and some other things, partly for Maintenance of that, which they thought well done, and partly to Eschew the Punishment, that by execution of Justice might fall upon them, assembled their Neighbours, and growing to some Number, made this *Tyler* their Captain ; being thus gather'd together to a considerable Body ; they laid open the Goal at *Maidstone*, where one *John Bull*, a Factious Priest, then a Prisoner, having gain'd his Liberty, march'd along with them, and growing to vast Numbers, he at *Black-Heath* made a Seditious Discourse to them, taking for his Subject this known Vulgar Proverb.

*When Adam delv'd, and Eve Span
Who was then a Gentleman ?*

From whence he inferr'd from the usual Topicks of most Rebellions, that the Inequality of Mankind was contrary to the Will of God, who if he had pleas'd to have Created Slaves or Bondmen, would have appointed who should have

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have been Servants, and who Lords and Masters; the Ears of the Vulgar were tickled with this dangerous Doctrine, who thus animated by their Multitudes, and holding Correspondence with others like themselves in *Essex* and other Counties, took up Arms and stopping all Passengers, they forc'd them to swear Fidelity to King *Richard* and the Commons, and never to own any King whose Name was *John*, which they did in hatred to the Duke of *Lancaster*. Upon the Conjunction of the *Essex* and *Kentish* Men with these at *Black-Heath*, which was within a short time, they grew to be a formidable Body, being near a 100000 Men strong. Their Pretences were Liberty and a Reformation of Evil Laws and Customs; in order to which they Beheaded all the Lawyers they could find; alledging that whilst one of that Tribe was living in the Nation, the Peoples Liberty could not but be Clogg'd.

The King amaz'd at this extraordinary and unusual Concourse, sent to know the meaning of it, and was answer'd by his Messengers, that they met to speak with the King about certain matters, and that he must come to them, and hear what they had to Desire; some were for the King's going immediately, but the Arch-bishop of *Canterbury*, and the Lord Treasurer *Hales* earnestly Oppos'd it, urging it better to Suppress by Force of Arms, than treat with, such an unruly Multitude. Upon notice of which, they threatned to be reveng'd of these Counsellors at the price of their Lives; and forthwith Marching into *Southwark*, they pull'd down Houses, broke the King's Prisons, and made a general Goal-Delivery, which still added to their Strength: The Bridge-Gate was at first shut against them, but by Threatnings, and the Assistance of some of the same Temper in the City, the Gates were open'd, and they had free Passage into the City, where they declar'd, that they came only to search for Traytors to the Kingdom, and at that time paid for what they call'd for, which gave them a Reputation among the common Sort, and increas'd their Numbers. The next Day (the 13th of *June*) they march'd thro' the City to the *Savoy*, then to the Duke of *Lancaster's* Palace, which they burnt and beat down, destroying all his rich Furniture, throwing his Gold and Jewels into the *Thames*, as likewise all his Plate, first breaking it into small pieces. Here they

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Proclaim'd it Capital for any Man to retain the least thing for his own Use, to shew the People they were not sway'd by Avarice; and when one of their Companions was discover'd to thrust a piece of Plate into his Bosom, to conceal it for his own Use, they immediately threw him into the Fire, declaring that they did not come as Thieves, to enrich themselves by Plunder. From the *Savoy* they turn'd back to the *Temple*, the Lawyers Habitation, and being deaf to all Intreaties, Head-strong, as such a Multitude generally is, they burnt their Lodgings, Books, Papers, and all Records that were there kept; This was the way indeed to have no Law in the Nation, but what Capt. *Tyler* might impose upon them. From the *Temple* they rang'd to *Clerkenwell*, where they destroy'd all the Goods of the Hospital of *St. John*, and fir'd that Magnificent Building; after which they divided themselves into three separate Bodies; one of which being headed by another Captain, call'd *John Straw*, went to *Heybury* Mannor, belonging to the Master of *St. John's* Hospital, where they busied themselves in Destruction and Plunder; a second Body of them, most *Essex* Men, and those of the Neighbouring Parts, lodg'd themselves upon *Mile-End* Green; and a third about *St. Catherines*, and the *Tower-Hill*.

The next Day, the King, with several Noblemen, went to that Body at *Mile-End*, consisting of about 60000; where he told them, he was their King, Demanding, what they would have? Their Answer was, they desir'd, he would make them, their Heirs, and Lands free for ever, so that they might not be call'd or reputed Bondmen. The King comply'd with their Request, provided they would return Home, and leave two or three of each Parish, to stay for their Charters of Freedom, Seal'd with the Great Seal; which being dispatch'd with the utmost Expedition, and all their Pardons Sign'd, most of the *Essex* Men return'd Home to their own Habitations; yet all this did not satisfy the insolent *Watt Tyler*, who had plac'd himself and his *Kentish* Rabble about *Tower Hill*, where the Terror of his rude Multitude was so great, that the Gates of the *Tower* were open'd to them without Resistance; from whence they hurried away the Arch-bishop of *Canterbury*, the Lord Treasurer *Hales* and others, and impiously Beheaded them on *Tower-Hill*; after which they rang'd into the

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the City, and cut off the Heads of many *English* Men, whom they had an Aversion to, and amongst the rest a famous Merchant, nam'd *Richard Lyons* went to Pot, whose Head they set, and carried advanc'd upon a Lance; and their Hatred to the *Flemmings* was so implacable, that they drew 13 of them out of the Church of the *Augustin* Fryers, and 17 more out of other Churches, and Cut off their Heads in the open Streets with Hellish Shouts, and Hideous Out-cries.

The following Day proceeding in the same Outragious Manner, the King sent to Acquaint them with the retreat of their *Mile-End* Companions Home, upon receiving Charters of Freedom, offering them at the same time the like, if they would accept of them; to which insolent *Watt* reply'd, he would imbrace Peace, provided the Conditions were to his Mind, designing to have delay'd the King and Council, so that in the Night he might destroy both King and Nobility, and plunder and burn the City, as it appear'd afterwards; three Charters being sent to him without satisfying him. (for it requir'd a particular Faculty to draw them to his Mind, which could not well declare what it would be at) The King at last sent a Knight to him (a sufficient Degradation of Knighthood, I think, for one of that Order to be sent Plenipo, to such a mean Rascally Fellow, as *Watt* was) who told him, that he should come, and treat with him about the Articles to be Inserted in their Charter, and when the Messenger desired him to make hast, *Watt* bad him with his wonted Insolence, tell the King, his Master, he would come when he saw his own Time, and so follow'd on very slowly on Horseback for the greater State. Upon his approaching the King in the Streets; the same Knight being sent again with Proposals from him, he was highly Offended because he came to him Mounted, it became him to alight from his Horse in his Presence, and drew out his Dagger to strike him; whereupon the King coming up, caus'd his Messenger to alight. Here *Tyler's* Demands were so Bold and Exorbitant, that the King never more dispos'd to comply, began to Demur, which made the other behave himself with an Insolence, greater than he had hitherto shewn, and not to be endur'd by any Sovereign. Whereupon the valiant *John Philpot* fir'd with Indignation, told his Majesty, that
if

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if he would command the Lord Mayor to arrest the Traitor, he would lose his Life if it did not succeed: To which the King consented, and gave such a Command to *William Walworth*, then Lord-Mayor; who waiting an Opportunity, and observing *Tyler* to play with his Dagger, as if he design'd some fatal Stroke, and then to lay one of his Hands upon the King's Bridle, he instantly executed his Arrest, by giving him a Blow on the Head with his Dagger, which being seconded by *Philpot's* Sword in his Body, he fell down dead at the King's Horse's Feet, with more Honour than he deserv'd. The Multitude seeing this, began furiously to cry out, Our Captain is murder'd, let's revenge his Death! But the King with a Courage and Ingenuity surpassing his Years, clapp'd Spurs to his Horse, and riding to the Head of them, cry'd aloud, Never grieve for the Death of a Traitor, I'll be your Captain and Leader; follow me into the Fields, and you shall have all your Desires. Upon which Words in Amaze they follow'd him towards *St. George's Fields*, till *Sir Robert Knolls*, with 1000 Arm'd Men rais'd by the Mayor, came upon them out of the City, which so terrified this headless Multitude, that they flung down their Arms, and begg'd for Mercy; which the King granted freely, but proclaim'd that no Citizen should correspond with them, nor suffer them to come within the Liberties of the City.

This Spirit of Insurrection and Rebellion was not confin'd to the Metropolis alone, but rag'd through several Parts of the Nation. In *Suffolk*, about 50000 arose under the Conduct of *John Straw*, a wicked Priest; who besides many other Barbarities, cut off the Head of *Sir John Cavendish*, Lord Chief Justice of *England*, and set it upon the Pillory at *St. Edmund's-bury*. In *Norfolk* vast Numbers of the same Sort of People arose, under the Conduct of *John Littister*, a Dyer in *Norwich*, who compell'd the Lord *Scales*, *Sir William Morley*, *Sir Stephen Hales*, and other Men of Quality to remain with them, and for their own Security to comply with their Actions. Great Numbers also appear'd about *St. Albans*, under the Command of a common Chandler, (so that the Heads of the several separate Parties or Bodies of this Rebellion were all illiterate and mean Persons) who committed un-

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heard of Outrages and Cruelties; and others again arose in several Parts of *Essex*. They were both suppress'd, but not without the Loss of much Blood. However, in a short Time all Insurrections were quell'd, and the Multitudes broken and dispers'd; and the King appointed Sir *Robert Tresilian* his Chief Justice, and some others, to try and punish the Ring-leaders of this dangerous Rebellion. Many were executed at several Places, of whom *John Straw* and *John Ball*, the Priest (who made the Seditious Discourse abovementioned to the Multitude at *Black-beath*) had been most notorious; and by the Confessions of these two, it appeared what desperate Designs had been laid towards the Ruin and Subversion of the Nation; particularly, That when they assembled at *Black-beath*, and sent to the King to come to them, they designed to have slain all the Knights, Esquires, and Gentlemen that came with him, and to have carried the King with them from Place to Place, that the Mob with greater Assurance might come into their Assistance, when they should see him as it were the Promoter of their Insurrections; that when their Numbers were sufficient in all Counties, they were to have killed such Lords, Knights, and others, as were most able to resist them, especially the Hospitallers. At last they were to have killed the King, and all the Bishops, Monks, and Rectors of Churches, possess'd of any Lands and Real Estates, sparing only the *Mendicant* Friars, who were sufficient to perform Divine-Service throughout the Nation: After all, when there had been none more powerful and knowing than themselves, they would make such Laws as they pleas'd, by which the People were to be governed, and they intended to have created new Kings, as *Watt Tyler* in *Kent*, and one in each County.

In Consideration therefore of this great Escape, and the worth of particular Persons, the King knighted *William Walworth*, Lord-Mayor, *John Philpot*, *Nicholas Brembre*, and *Robert Lound*, Aldermen, and gave to the First 100 *l. per Annum* Land; and to the other Three 40 *l. per Annum*, to them and their Heirs for ever. And as *Lambert* (in his Perambulation of *Kent*) and others write, the Dagger was added to the Arms of the City of *London*, to
be

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be born (for an Increase of Honour) in their Shield for ever.

This Sir William Walworth, Lord-Mayor of London, An. 1374. Servant formerly to John Lovhen, Stock-Fishmonger 4 Times Lord-Mayor of that City (the last Time Anno 1366.) and Founder of St. Michael's Church in Candlewick, (now Canon) Street, added a new Choir and Side-Chapel to this Church, and afterward founded therein a College of a Master and nine Priests; and deceasing Anno 1385, he was there buried. His Arms are (*viz.*) a Bend ragul'd, between two Garbes. Mr. Lovhen (Sir William's former Master) was also buried (according to Stow) in the old Choir of this Church of his own Foundation. Mr. Weaver (in his Funeral Monuments has these Lines upon Sir William Walworth. (*viz.*)

*Here under lieth a Man of Fame,
William Walworth call'd by Name;
Fishmonger he was in Life-time here,
And twice Lord-Mayor, as in Books appear;
Who with Courage Stout, and Manly Might,
Slew Watt Tyler in King Richard's Sight:
For which Act done, and true Intent,
The King made him Knight incontinent;
And gave him Arms, as here you see
To declare his Fact and Chivalry.
He left his Life, the Year of our Lord
Thirteen hundred Fourscore-three and odd.*

The Arms of Mr. Lovhen (*alias Loufhein*) Sir William Walworth's Master, are (*viz.*) a Chevron, between three Faulcons volant, (Lambert's *Perambulation of Kent*), Echard's *History of England*, Fol. Vol. 1. Collier's *Ecclesiastical Hist. View of London*, 8vo. Vol. 2.)

(6) *Smithfield*] *West-Smithfield*, a spacious Place in the City of London, containing about three Acres, in Form of an irregular *Polygon*, consisting of five unequal Sides; here is the greatest Market for Cattle, both white and black, and Horses, in England, kept every *Monday* and *Friday*, and another for Hay and Straw, kept every *Teusday*, *Thursday*, and *Saturday*; also a very great Fair for Cattle for three

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three Days, beginning on *St. Bartholemew's-day*; but that for Toys, and the Diversion of Drolls, Rope-dancing and strange Creatures, lasts a Fortnight. The Centre of this Field (so call'd) tho' built round with considerable Houses) is from *St. Paul's Cathedral* near North, 630 Yards. *Stow* says it had its Name from being a smooth Field, where the King us'd to see Jufts and Tournaments; also a Place, where Malefactors were sometimes executed; it was first pav'd over at the Request of King *James* the 1st in the Year 1614. at the Charge of the Citizens, which amounted to 1600 Pounds Sterling, and was near six Months in finishing. (*View of London, Vol. 1.*)

(1) Ser-

'Twas some Time after before this Honour was conferr'd on Serjeants (1) at Law, the first Instance being in the 26th of *Henry* the 8th, the Value of a Knights Fee was, about the Conqueror's Time, no more than 100 s. *per Ann.* but in the Reign of *Henry* the 3d, it was rais'd to 10 l. *per Ann.* and towards the latter End of his Reign to 15 l. *Temp. Edward* the 1st, it mounted to 20 l. *per Ann.* *Henry* the 8th brought it to 40 l. *per Ann.* Those who were possessed of Estates to the Value abovementioned, being oblig'd to receive the Honour of Knighthood, or to fine upon Refusal; so that the Title was rather a Burthen than an Honour. *Skene de verbor. significat. verb. milites* saith, That in the ancient Laws of *Scotland*, Freeholders

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holders were call'd *Milites*, which may seem to have been a Custom (2) with us. *Bracton* (3) also in divers Places saith, That Knights must be in Juries (4) which turn Freeholders do now serve.

But

(1) *Serjeants at Law*.] The Etymology, Business, and Advantages of this Degree, are briefly touched upon by the Lord Keeper *Williams*, Bishop of *Lincoln*; 'twas done upon a solemn Occasion, in a Speech at a Call of thirteen Serjeants, May 6. 1623. 20 Jac. 1. Now so full a Discourse being not to be met with any where else, that I know of; I shall transcribe the greatest Part of it for the Reader.

To begin after a Short Preamble spent in Modesty and Compliment, his Lordship directing his Discourse to the new Serjeants, continues thus - - - - - ' I will observe
' my own common *Exordium*, which hitherto, I have us'd
' to all those whom I have saluted with a few Words,
' when they were install'd in their Dignities; and I have
' it from the Manner of the old *Romans*, *Meminisse Oportet Officii Titulum*; Remember the Title of your Degree, for it will afford you sufficient Matter of Admonition. You are called *Servientes ad Legem*, Serjeants at Law, *Verba Bracteata*, Words very malleable and extensive, and such as contain more Lessons than Syllables. The Word Serjeant, no doubt is a Stranger born, tho' now, for many Years denizon'd among us. It came over at first from *France*, and is handled as a *French* Word by *Stephen Pasquier* in his 8th Book of *Recherches*, and 19th Chapter - - - *Sergent* in the old *French*, is as much as *Serviens*, saith *Pasquier*, a Servant or an Attendant, as *Sergens de Dieu*, the Servants of God; in the old History of *St. Denys*: *Sergens* of *Disciples de la sanctite*, Servants or Disciples of his Holiness the Pope, in the Life of *St. Begue*: And *Sergens d'Amour*, Servants

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'vants of Love, in the Romance of the Rose, a Book
 'well known in our Country, because of the Translator
 'thereof, *Geoffrey Chaucer*: And therefore as *Pasquier*
 'thinks, those inferior Officers are called *Sergens, i. e. Ser-*
 'vants, because at the first, Bayliffs or Stewards employ'd
 'their own Servants in such Summons; So this more ho-
 'nourable Appellation of Serjeants at Law, has receiv'd
 'its Denomination, because at the first, when the Laws
 'were no more than a few plain Customs, when the Year
 'Books had not yet swell'd; when the Cases were not so
 'diversified; when so many Distinctions were not coin'd
 'or minted; when the Volumes of the Law, through our
 'Misdeeds and Williness, were not so multiplied; Men
 'employ'd their own Servants to tender their Complaints
 'unto the Judges, and bring them Home a plain and pre-
 'sent Remedy. But afterwards Multitudes of Shifts be-
 'getting Multitudes of Law; and Multitudes of Laws,
 'Difficulties of Interpretations, especially where the
 'Sword had engraven them in strange Languages, as those
 'induc'd by the *Saxons, Danes, and Normans* into this
 'Island, the State was enforc'd to design and select some
 'learned Men to prepare the Causes of the Client, for the
 'Sentence of the Judge, and the Sentence of the Judge
 'for the Causes of the Client; who, tho' never so enno-
 'bled by their Birth or Education, yet because they suc-
 'ceeded in those Places of Servants, were also called *Ser-*
 'vientes, Serjeants or Servants. Great Titles have grown
 'up from small Originals, as *Dux, Comes, Baro*, and
 'others, and so has this, which has been ennobled by
 'the Affix unto it, a Serjeant at Law. Tho' you are not
 'the Rulers of Causes, and Masters upon the Bench, yet
 'it is your Preheminence, that you are the chief Servants
 'at the Bar. In the Household of our dread Sovereign,
 'the Chief in every Office, who commands the lower Mi-
 'nisters, is advanc'd to be call'd the Serjeant of his Place,
 'as Serjeants of the Counting-house, Carriages, Wine-
 'Cellar, Larder, with many others. In like Manner
 'your Name is a Name of Reverence, tho' you are stiled
 '*Servientes*; for you are the Principal of all that Practise
 'in the Courts of Law; Servants, *i. e.* Officers prefer'd
 'above all Ranks of Pleaders; for every Thing must be
 'ruled by a Gradual Subordination: You are the next in
 'the

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the Train to my Lords the Judges; and some of your File, not seldom employ'd to be Judges itinerant. But you are all constantly promoted to be *Contubernales* & *Commensales*: You have your Lodgings in the same Houses, and keep your Table and Diet with those Pillars of the Law, who therefore call you and love you as their Brethren. *Fortescue* in his 6th Book, *De laudibus Legum Angliae*, Cap. 50. compares your Dignities with the Chief Degrees of the Academies; and there is no Argument that proves the Nobleness of the one, but it is as strong and militant for the other. I will touch upon the Reasons, as they are set down in *Junius's* Book *de Academia*, and apply them in Order to this Purpose.

1st. 'This Degree is as a Caveat to the whole State and Commonwealth, that by it they may know whom to employ in their weighty Causes and Consultations; and so does *Fortescue* appropriate *Omnia Realia Placita*, all the Real Actions, Pleadings of his Time to the Serjeants only.

2dly, 'As *St. Paul* saith to the *Corinthians*, *Epistola nostra vos estis*, ye are our Epistle; so may we, the Judges, in our several Places, say unto the Serjeants, *Epistola nostra vos estis*; you are by Reason of your Degrees, our Letters of Recommendation to the King's Majesty, for his Choice and Election for the Judges of the Kingdom: Because as *Fortescue* also truly observes, no Man, tho' ever so learned, can be chosen into that eminent Place, *Nisi statu & Gradu servientis ad Legem fuerit insignitus*.

3dly, and lastly, 'This Degree of Honour is to *Begün*, a kind of Spur and Incentive to all the Students in the Law, that they might more easily concoct those otherwise unsupportable Difficulties, and Harshness of their Studies, in Hope one Day to attain unto those Honours, wherewith all of you by his Majesty's Favour, and your own Merits, are now to be invested. Those outward Decorums of Magnificence, which set forth your Exaltation this Day are very specious, and sparkle so much in the Eyes of the young Fry, that swim up after you, that they cannot but make very sensible Impressions on their Minds, to follow your Industry, that they may attain to your Dignity. That Gold which you give away

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' *Secundum Consuetudinem in hoc Casu*, implies that by
 ' your Faith, Labour, and God's Providence, you have
 ' attain'd to the Wealth of a fair Estate : and Wisdom is
 ' good with an Inheritance. (*Eccles. 7. 11.*) Nay, I wish
 ' heartily that all wise Men had plentiful Inheritances,
 ' and that the Silly and Sottish were not so fortunate in
 ' gathering Treasure; for a rich ignorant Man is but a
 ' Sheep with a Golden Fleece. Then your Great and
 ' Sumptuous Feast is like that at a King's Coronation;
 ' at which you entertain the Ambassadors of foreign Kings,
 ' now Resident about the City, and the prime Officers
 ' and Nobility of this Realm. But to ascend higher,
 ' King *Henry* the 7th in his own Person, did Grace the
 ' Serjeants Feast, held then in *Ely* Palace in *Holborn*. So
 ' estimable was your Order in those Days to that mighty
 ' Monarch. I should be too long, if I should speak of
 ' the Ornament of your Head; your pure Linnen Coif,
 ' which Evidences, that you are Candidates of higher Ho-
 ' nour; so likewise your Abundance of Cloth and Live-
 ' ries: Your Purple Habits, belonging antiently to great
 ' Senators, yea, to Emperors; all these and more, are but
 ' as so many Flags and Ensigns to call up those your Stu-
 ' dents, that fight in the Valleys, to those Hills and
 ' Mountains of Honour, which you by your Merits have
 ' now achieved.

----- *Neque enim virtutem amplectimur ipsam*
Pramia si tollas -----

' Gentlemen, I have told you from the Explanation of
 ' your Title, what you are by Denomination; you must
 ' be Dutiful and Respect my Lords the Judges, because
 ' you are *Servientes*, Servants; and you must be reverenc'd
 ' by all of your Robe, but the Judges, because you are
 ' *Servientes ad Legem*, Journeyment of the Law; whereas
 ' the Rest, tho' call'd to the Bar, are no more than *Disci-
 ' puli* (in *Justinian's* Phrase) or as your own Books term
 ' them *Apprentilii*, mere Apprentices, you serve in that
 ' Law, which is of excellent Composure, for the Relief of
 ' them, that seek Redress in this Nation, through all
 ' Cases: And of rare Privilege, it is above the Trials of
 ' all other Kingdoms and States, for the Trial of those
 ' that

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' that are under criminal Attainder, by a Jury of their
 ' own Peers; which Method I find us'd, both in antient
 ' Politics, and likewise by *Cato Major*, in his own Fa-
 ' mily *Supplicium de Servo non sumpsit, nisi postquam*
 ' *damnatus est conservorum judicio*. He punished none of
 ' his Bondmen, unless they were cast by the Verdict of
 ' their Fellow-Bondmen. To be elected the prime Servants
 ' of our most wise and equal Laws, supposes in you great
 ' Reading, great Reason, great Experience, which deser-
 ' vedly casts Honour on your Persons. Emulous, I may
 ' say, envious Censurers speak scornfully of your Learn-
 ' ing and Knowledge, that it is gainful to you at Home
 ' in your own Countrey, but of no Use and Value abroad.
 ' For what is a Serjeant or Counsellor of these Laws, if
 ' he gets *Dover Cliffs* at his Back? So I remember *Tully*
 ' in his Oration *pro Muræna*, being more Angry than he
 ' had Cause with *Sulpicius*, who was *Vir juris consultissi-*
 ' *mus*, disdains his Skill with this Taunt; *Sapiens existi-*
 ' *mari nemo potest in ea prudentia, quæ extra Romam ni-*
 ' *hil valet*; that was a wise Art indeed, which was wise
 ' no farther than the *Prætors Court* in *Rome*. Let *Sulpi-*
 ' *cius* answer for himself; but in your Behalf, I have this
 ' to answer, that besides your judicious Insight into the
 ' *Responsa Prudentum*, and the laudable Customs of this
 ' Kingdom, which are proper, with our Statute Laws, to
 ' our own People, I say, besides these, the Marrow of
 ' the whole Wisdom of the *Cæsarian Transmarine Law*,
 ' is digested into our Common and Statute Laws, as will
 ' easily appear to him, who examines the Book of En-
 ' tries or original Writs; which makes you sufficient to
 ' know the Substance and Pith of the Civil Law in all
 ' Courts of *Europe*: so that you would be to seek in their
 ' Text, not in their Reason, and in their Traverses and
 ' Formalites of Pleadings, which are no Prejudice to the
 ' Worthiness of your Function.

' Now I have told you as a Judge, that you are Ser-
 ' vants, but Honourable Servants of the Law; before I
 ' conclude, let me admonish you as a Bishop, that you
 ' are in your highest Title, the Servants of God; there-
 ' fore keep a good Conscience in all Things; serve that
 ' Holy Law, which bids you not pervert the Right, and
 ' Cause of the Innocent. I know, 'tis very hard to dis-
 ' cern

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cern the Right from the Wrong in many Suits, till they come to be thoroughly sifted and examined. So truly did *Quintilian* say, *Lib. 2. Cap. 8. Potest accidere ut ex utraque parte Vir bonus dicat.* An honest Man in many Pleas may be entertain'd on either Side, therefore 'tis no discredit to your Profession, that as the *Atolians* in *Greece* of old, and the *Switzers* in the *Cantons* at this Day are often Auxiliaries on both Sides in a pitch'd Battle; so you should be feed to try your Skill, either for Plaintiff or Defendant. But when you discern a Client's Cause is rotten, then to employ your Cunning to give it Victory against Justice, is intollerable. The more Vulgar that Iniquity is, the more it is odious. As *Pliny* said, *Lib. 8. Epist. ad Ruffinum, Decipere pro moribus Temporum prudentia est,* it was the great Blindness and Corruption of the Times, when Cheating pass'd for Wisdom. He that labours by witty Distortions to overthrow the Truth, he serves Lucre and not God, he serves Mammon and not the Law: Ye know, ye cannot serve these two Masters, for they are utterly opposite: But to conclude, three Masters you may, nay, you ought to serve, which are subordinate, serve God, serve the King, serve the Law.

Ille alacres tantæque precor, confidite Causæ. I have ended. The Fear of God go with ye, and his Blessing be upon ye. Archbishop *Williams's* Life by Bishop *Hacket.* Pag. 110, &c. The Form of creating a Serjeant at Law the Reader may see in *Fortescue* and *Dugdale's Origines Juridiciales.* (*Collier's Great Hist.* &c. Dist.)

Serjeant, *Serviens* (according to *Cowel*, whose Authority I thought fit to subjoin to that foregoing) cometh of the *French*, Serjeant, *i. e. Satelles*, a Man of the Guard, so call'd, because he was *sæpe accitus ad res necessarias in exercitu peragendas*, so *Calepine.* But *Skene de verborum significatione verbo Sergeant*, saith it is *vox composita de serrer, quod est includere, & Gent, quod pro gente, Plebe vel Populo usurpatur.* This Word is diversly us'd in our Law, and applied to sundry Offices and Callings. First, a Serjeant at Law (or of the Coif) is the highest Degree taken in that Profession, as that of a Doctor is in the

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Civil Law. And to these as Men best learned, and most experienc'd of all others, one Court is set apart for them to plead in by themselves, which is the Court of *Common Pleas*, where the Common Law of *England* is most strictly observ'd; and tho' they have this Court to themselves, yet are they not restrained from pleading in any other Courts, where the Judges (who cannot have that Honour till they have taken the Degree of Serjeant at Law) call them Brothers, and hear them with great Respect next to the King's Attorney and Solicitor-General. These are made by the King's Mandate or Writ directed unto them, commanding them upon a great Penalty to take upon them that Degree by a Day certain therein assign'd. (*Dyer. Fol. 72. Num. 1.*) And of these is the King's Serjeant, being chosen commonly out of the rest, in Respect of his great Learning, to plead for him in all Causes, especially in those of Treason. (*Stamf. pl. Cor. Lib. 7. Cap. 1*) And of these there may be more if it please the King. This in other Kingdoms is called *Advocatus Regius* (*Cassan de Consuet. Burgund. Pag. 850.*) With what Solemnity these Serjeants were created, read *Fortescue, Cap. 50.* These were call'd anciently *Servientes Narratores* & *prædictus Thomas de Mareschall dicit quod ipse est Communis serviens Narrator coram Justiciariis, & alibi ubi melius ad hoc conducitur poterit, &c. Trin. 25 Ed. 1. coram Rege Oxon.* This Word Serjeant is us'd in *Britain* for an Officer belonging to the County, and the same which *Bracton* in his 5th Book, *Cap. 4. Numb. 2.* calls *Servientem Hundredi*, and is in Truth no other than the Bayliff of the Hundred. And the Steward of a Manor is call'd *Serviens Manerii*. (*Coke. Copyhold Cases.*) Then the next is a Serjeant at Arms, *Serviens ad Arma*, whose Office is to attend the Person of the King. *Anno 7. H. 7. Cap. 3.* to arrest Traitors or Persons of Quality offending, and to attend the Lord High Steward of *England* sitting in Judgment upon any Traitor, and such like. Of these by the Statute 13 R. 2. *Cap. 6.* there may not be above thirty in the Realm. Two of these by the King's Allowance, attend on the two Houses of Parliament: The Office of him in the House of Commons is the keeping of the Doors, and the Execution of such Commands, especially touching the Apprehension of any Offender, as that House shall enjoin

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enjoin him. (*Crompt. Jurisd. Fol. 8.*) Another of them attends on the Lord Chancellor, or Lord Keeper in the Chancery, and one on the Lord High Treasurer of England, and one attendeth upon the Lord President of Wales, and another upon the Lord President of the North. Another sort of Serjeants are Chief Officers, who execute several Functions in the King's Houthold, of which you may read many in Stat. 33 *H. 8. Cap. 12.* There is also a more inferior Kind of Serjeants, of the Mace, whereof there is a Troop in the City of London, and other Corporate Towns, that attend the Mayor, or other chief Officer, both for menial Attendance, and chiefly for Matters of Justice; these are call'd *Servientes ad Clavam.* *New Book of Entries, Verb. Scire facias in Mainpernors. Cap. 3. Fol. 538. (Cowel's Interp.)*

What Coke saith of a Serjeant at Law in his *Inst. 2.* commenting upon *Stat. Westm. 1. Cap. 29.* I desire the Reader to take in his own Words, viz. of his Antiquity and Calling, *ad Statum & Gradum Servientis ad Legem*, I have spoken (saith he) in another Place. *Inst. Fol. 17.* in antient Books, he is call'd Counter or Narrator of the Count or Declaration, being grounded upon the Original Writ, the Foundation of the Suit: And Serjeant being a general Word, Counter is added to it, to restrain it to Serjeant at Law; and until this Day when Serjeants proceed, every of them counteth, that is, reciteth a Count in Action appointed to him by the Judges before them.

The OATH of the Serjeant at Law consisteth of four Parts, viz.

1. That he shall well and truly serve the King's People, as one of the Serjeants of the Law.
2. That he shall truly Counfel them, that he shall be retained with, after his Cunning.
3. That he shall not defer, traēt, or delay their Causes willingly, for Coverousness of Money or other Thing, that may tend to his Profit.
4. That he shall give due Attendance accordingly.

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The OATH of the King's Serjeant at Law consisteth of six Parts. viz.

1. That he shall well and truly serve the King and his People, as one of the King's Serjeants at Law.
2. That he shall truly Counsell the King in his Matters, when he shall be called.
3. And duly and truly minister the King's Matters after the Course of the Law to his Cunnings.
4. He shall take no Wages or Fee of any Man for any Matters, where the King is Party, against the King.
5. He shall as duly, as hastily speed such Matters, as any Man shall have to do against the King in the Law, as he may lawfully do, without Delay, or tarrying the Party of his lawful Process in that belongeth to him.
6. He shall be attendant to the King's Matters, when he shall be call'd thereto.

In former Times learned and Grave Apprentices of Law (for so were Barristers at Law heretofore called; so saith Mr. Selden in his Notes upon *Fortescue*, Pag. 3. And so Mr. Plowden stil'd himself; Sir Henry Finch in his *Nomotechnia*, gives himself the same Title) came not to this State and Degree *per Ambitum*, but contrariwise, when they were called thereunto, they assay'd all Means to avoid it, taking the Degree of an Apprentice (*i. e. Consularii & in Lege periti*) to be the more permanent Place: As taking one Example for many in the 5th Year of Henry the 5th, John Martin, William Babington, William Pole, William Westbury, John Juns, and Thomas Rolfe, six Grave and Famous Apprentices, having Writs deliver'd unto them to take the State and Degree of Serjeants returnable in Michaelmas Term, when all the Means which they had used, could not prevail, they at the Return thereof in Chancery absolutely refus'd the same; whereupon they were call'd into the Parliament then sitting, and there charg'd to take the State and Degree upon them, which in the End they did; and divers of them afterward did worthily serve the King in the principal Offices of the Law, as by our Books appeareth.

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appeareth. And Pag. 597. of *Inst.* 2. *Coke* saith, an Apprentice refusing to be Serjeant at Law shall be once Fin'd.

(2) *Custom with us.*] The chief Gentlemen likewise or Freeholders of every County (in Regard they usually held by Knights-Service) are (saith *Selden*) stil'd *Chevaliers* (*Milites*) in the Statute of *Westminster* 1. *Cap.* 10. touching the Choice of Coroners.

(3) *Bracton*] *Lib.* 3. *Tract.* 2. *Cap.* 1. *Numb.* 2.

(4) *Juries*] Knights (saith *Selden*) besides the Dignity that necessarily accompanies their solemn Profession of Arms, and that which was due to them naturally, as they had Relation to the Field, have had also with us peculiar Respects and Notes of Honour, which occur in the Legal Proceedings of the Kingdom. The Grand-Assize in a Writ of Right, which is as a *Jury* (and the highest Trial by Oath that is in the Law) is to be chosen by Knights, and out of Knights, if they can be found; and none else of less Quality should either choose or be chosen, unless there be not Knights enough to fill the Assize. Upon an *Essoin* also *de Malo-lecti*, (one of the five Heads to which the divers Causes that serve to *Essoin* any Man summoned to appear and answer to an Action Real, &c. are chiefly drawn) the ancient Law was, that four Knights were to be sent to take a View of the Defendant, and it was not sufficient if the Sheriff sent Esquires, or any that were of less Dignity; *Milites enim esse debent* (saith *Bracton*) *propter Verba brevis*: For the Writ to the Sheriff is expressly to send four *Milites*, which are there taken, it seems for Honorary Knights, *i. e.* such as are solemnly created into the Order of Knighthood, for they only are Honorary. Upon Trials also in Actions where a Baron of Parliament is Plaintiff or Defendant, the Baron may justly challenge the Panel, unless one Knight, at least, be return'd of the Jury; which tho' it be a Privilege to the Baron, yet it is an Honour to the Order of Knighthood, seeing no such Trial can be legally had (the Baron making his Challenge) if one Knight at least be not among the Judges of the Fact. (*Tit. Hon.*)

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Now for the Derivation and Signification of the Word *Jury*, the Antiquity of this manner of Tryal with us, &c.

Jury; *Jurata* may be deriv'd from the *Latin* Word *Jurare*, to Swear; and signifies either 24 or 12 Men, sworn to enquire of the Matter of Fact, and declare the Truth upon such Evidence as shall be deliver'd them touching the Matter in Question.

The Way of Tryal by *Juries* with us was Contemporary with the Foundations of our Government, and has continu'd under all the Revolutions of Times ever since. *Ad Quæstionem Juris respondent Judices*; *Ad Quæstionem facti respondent Juratores*, has always been a Fundamental Maxim of our Government. That it is of *English Saxon* Descent appears by the Laws of King *Ethelred*, Cap. 4. In all Hundreds let Assemblies be, and 12 Freemen, the most Antient, together shall Swear not to Condemn the Innocent, or Absolve the Guilty. (*Lamb. in verb. Centur.*) But Sir *Henry Spelman* says, *Certe ipsius Ethelredi Læges quæ extant, Ordaliū in Hundredo solummodo indicant.* (*Tit. Jur. & Jud. Dei.*) But it was rarely us'd, till those Superstitious Trials by Ordeal, &c. were abrogated by *Henry* the 3d. It is the great Happiness, Freedom and Liberty of the *English* Nation, that in all Offences Criminal, each Freeman shall receive his Tryal *per Pares*, by his Equals. No Person can be Convicted or Attainted, or have Judgment of Life, or Member upon any Criminal Accusation, but there must two *Juries* pass upon him, at least 24 Persons: the one a *Grand Jury* (*ex parte Regis*) to present the Offence fit for a Tryal; the other a *Petit* or lesser *Jury*, *inter Regem & Personam Accusatam*, to try the Truth of that Presentment; the *Grand Jury* coming from all parts of the Country; the other *Jury*, *de ipso vicinato*, of the very Neighbourhood, where the Offence was committed. The first is call'd a *Grand Jury*, either in respect of their Number being above 12 (the general Certainty of all other *Juries*) and may be as many as the Court please, but usually exceed not 23, and unless 12 thereof agree, they cannot give a legal Verdict. For I have read of a Judge, that was Hang'd for giving Judgment on the Verdict of 11 Jurymen.

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BUT in the *Petit Jury*, every Man of the 12 must agree, before they can give a Verdict. Or else they are call'd Grand in respect of the Quality of their Persons, or greatness of their Estates: For in antient time (as is shew'd before) the *Jury*, as well in Common Pleas, as Pleas of the Crown, were 12 Knights. Or lastly, that *per Excelentiam*, they are stil'd *Juratores pro Domino Rege pro Corpore Comitatus* (*Glanvil. lib. 2. Cap. 14. Bracton Pag. 116*) And as the Commons in Parliament are to the whole Kingdom, they have an unlimited Power to present all Offences committed in their Country, that are *Contra Pacem, Coronam & Dignitatem Regis*, against either Statute or Common Law; they being the great or grand Spring, or *Primum Mobile* of the Court, that gives Motion to all the other Wheels; their Presentments being the Key, that opens and shuts the Proceedings of the Court in every Offence. Therefore the Law of *England* takes care, that *Juries* must consist of such Persons, that are *Probi & legales Homines*, lawfully Impannell'd and Return'd by the Sheriff, and neither Attainted, or Outlaw'd in any Personal Action. They must likewise be sufficient *Respectu Censu*, which is, that every one must have 40*s. per Annum* in Free-hold.

It is the general Course of the World to esteem Men according to their Estates; for,

*Quantum Quisq; sua Nummorum servat in Arca,
Tantum habet & Fidei.-----*

And *Jurors*, that have Estates to lose, will be afraid to commit Perjury; the defect in Sheriffs not returning Men of better Estates and Abilities, gives me occasion to affirm that the *Jurors* in *England*, especially in the Circuits, are for the most part the very Scandal of the Laws Practice, who seldom serve, but to serve a Turn, to obey a Superior, pleasure a Friend, or to help away (in an hurry) a quick dispatch of Practice, and that it is hard to get an unbiass'd *Jury*: Some Serving, that have more need to be reliev'd by the 8*d.* than Discretion to sift out the Truth of the Fact;

*Pudet hac Opprobria nobis
----- & dici potuisse & non potuisse refelli.*
The

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The Fault is not in the Laws of *England*, but in the Male-Execution of them. In former Times, when Estates of Inheritance were in few Mens Hands, such as had 40 s. *per Annum*, were found sufficient to serve on *Juries*; and *Temp. Hen. 3.* One Shilling was as much then, as Forty Shillings now. After Estates of Inheritance came in greater measure to the Vulgar, it was by the Statute of 27 *Elizabeth Cap. 6.* made 4 l. *per Annum*. By the 16 and 17 *Charles the 2d. Cap. 3.* 20 l. *per Annum*. And by the 4 and 5 of *William and Mary*, every *Juror* between Party and Party must have 10 l. *per Annum*. And 'tis pity the Wisdom of the Parliament extends not the same to the Jurors in Criminal Causes also, that such Scandalous tho' just Reflections, may in great measure be Obviated, and the Life of a Subject may be valu'd at above 40 Marks. Every *Juryman* must likewise be sufficient *Respectu Rationis*, no Ideot, Lunatick, &c.

Jurors are return'd by the Sheriff, by vertue of a precept to that purpose, against which, at Common Law, both King and Subject had two Lawful Challenges, peremptory and upon Cause shew'd; but tho' the peremptory Challenge remaineth for the Party, yet it is abridg'd by the Statute of 32 of *Henry the 8th. Cap. 30.* For whereas at Common Law, he might have Challeng'd 35, without Cause shew'd, it is now reduc'd to 20; and if he Challenge beyond that Number, it is a waving his Tryal; but he may Challenge as many as he will for Cause shew'd, which shall be tried by two of them, that were before Impanell'd to be appointed by the Court.

Foreigners are to have a peculiar way of Tryal, *de Medietate Lingua*, Six *English*, and 6 Foreigners, if there be so many in the Place, and these may be of any Nation, but the Party must pray such *Jury*. It is a good Challenge to a *Juror*, that he was one of the Party's Indictors, for he shall be presum'd not to change his Mind; 25 of *Edward the 3d*, see more fully for the Cause of Challenge in Criminal Matters. (*Stamf. Lib. 5. 7. and Coke Inst. 1. Fol. 126. Duncomb's Tryal per Pais, &c.*) Thus much of *Juries*.

(1) *Pompey*

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But since the Title, Dignity, and Privilege of a Knight are so great, I must before I leave it, say something more of Knighthood. It is one of the highest Degrees of Honour, and the Antiquity thereof is deriv'd from the first Original of Martial Discipline, being the first Honour, that was ever given to worthy Persons; not to such only that were Courageous and Hardy, and had born Office in the Field, but to such as were found Grave in Council, Courageous in War, Provident in Danger, and able by their Advice to Direct or Lead an Army against the most perilous Enemy, that should offer to invade the State. *Pompey* (1) the Great, after his many and wonderful Victories, having vanquish'd and taken several Kings Prisoners in Battel, and having been divers times General in the Field, Triumphant (2) most like an Emperor, did not think himself highly Honour'd, till such time as he had receiv'd the Honour of Knighthood; and therefore when the Censors sat upon the Tribunal Seat, he desir'd it; such was the Account of Knighthood in former times, that Emperors, Kings, and great Princes of the World took the same as an Addition of Honour. *Arthur* (3) King of *Great-Britain*, Erected his Round Table (4)

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at *Winchester* (5), and to honour his Champions and Captains of his Host, Dubbed an 140 of them in one Day ; and under that Title the Christians Warred against the Infidels for Maintenance of the Gospel.

The

(1) *Pompey the Great.*] *Q. Pompeius* (firnam'd the Great) was Son to *Pompeius Strabo*, Consul of *Rome* and General, and *Lucilia* descended from a Noble Family, of considerable Rank among the Senators, and Born *Sept. 30*, in the 648 of *Rome*, being the same Year that *Cicero* was Born. *Paterculus* saith, he was free from most sorts of Vices, were it not that in a Free City, and Mistress of the Universe, where the Right of Citizens ought to be equal, he was concern'd to see any in the same Degree of Reputation and Power: He applied himself to the Wars, when but very young, with his Father, who was a good and experienc'd Commander. At the Age of 23 he rais'd of his own Accord, and without any Publick Authority, for the Defence and Re-establishing the Honour of his Country, three Legions, which he carried to *Sylla*; and three Years after merited the Honours of Triumph, which could not be refus'd to his Valour, whereof he had given sufficient Proofs in retaking *Sicily* and *Africa* from those, who were Out-law'd for Treason. Some time after *Sylla* dying, he drove *Lepidus* out of *Rome*, because he would abrogate all that *Sylla* had done, and in 677, overcame him in Battle, whereupon he got a Commission to carry the War against *Sertorius* into *Spain*, which he happily terminated in 681, and Triumph'd a second time, some Days before he entred upon the Office of Consul, being no more than a *Roman* Gentleman, which never happen'd to any Person before him. During his Consulship he Re-establish'd the Power of the Tribunes of the People, and after this overcame the Pyrates in a Sea-Fight, and clear'd the Seas; to which Advantages were added, those which he obtain'd against *Tigranes* and *Mithridates*. He pursu'd his

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his Victories into *Media*, *Albania*, and *Hiberia*, and then turn'd his Arms against the People that lay to the right of the *Euxine* Sea, the *Colchians*, *Acheans*, *Jews*, *Partians*, &c. and having done all this, he return'd into *Italy*, being now Greater, than the *Romans* or himself ever expected. He was receiv'd with great Joy, because, that having Disbanded his Troops, he came to the City like a private Citizen; His Triumph lasted two Days, and was very Magnificent by the great Number of Vanquish'd Princes, which were led in it. He brought a greater Quantity of Money into the Publick Treasury, than any General, that ever was before him. It was at this time (says *Velleius Paterculus*) that Fortune rais'd his Glory by Degrees to the very Height, having made him Triumph over *Africa*, *Europe* and *Asia*. But in the mean time *Cesar's* Glory seem'd to obscure his; the one could not endure an Equal, nor the other a Superiour; but *Julius Cesar's* Daughter, whom *Pompey* had Married kept up Friendship between them for some time, and together with *Crassus*, they made a Triumvirate, but this Correspondence was soon broken after the Death of *Julia* and *Crassus*.

Pompey had the Government of *Spain* conferr'd on him, and *Cesar* was ordered to quit the Command of the Armies he had for 10 Years in *Gaul*, and come to *Rome* as a private Person, to Demand the Consulate that he desir'd, but he refus'd, and so the War was declar'd: *Cesar* came to *Rome* in 705, which *Pompey*, with the Consuls and Senate, had quitted, as they did also *Italy*, and went to *Epyrus*, whither *Cesar* went also, having defeated *Pompey's* Lieutenants in *Spain*; and in the Year 706 Overthrew him in the Plains of *Pharsalia*. *Pompey* fled into *Egypt*, where by the Advice of *Theodatus* and *Achillas*, *Ptolemy* ordered *Photinus*, a Slave to kill him the Eve of his Birth-day, after he had been three times Consul, Triumph'd thrice, and had subdu'd a great part of the World, at the Age of 48.

Tully gives him this Character, viz. That he was a Person Born for great Things, and capable of attaining the height of Eloquence; but he chose rather to follow his Military Inclination. He could express himself with great Variety, weigh'd Affairs with great Judgment, his Deportment was fine, his Voice strong and Musical, and his

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his Motions Grave. He left two Sons, the eldest *Cn. Pompeius* got a Potent Army together, and became Formidable; but *Cæsar* defeated him at the Battle of *Munda* in *Spain*, which was fought with great Resolution, the Victory hanging doubtful a long time, and *Pompey* being unable to make his Escape, because of his Wounds, as his Brother did, he was Kill'd there. The younger *Pompey* got an Army of Slaves together, and made himself Master of *Sicily*. *Paterculus* saith, he made a Peace with *Augustus* and *Anthony*, and had *Sicily* and *Greece* assign'd him, but he quickly renew'd the War, was beaten at Sea by *Augustus*, and endeavouring to make his Escape to *Anthony* was Kill'd by the way; so that it may be truly said, these two young Men were Heirs both of the Valour and Misfortune of their Father. (*Collier's Great Hist. &c. Dict.*)

(2) *Triumphing.*] Triumph, a solemn Honour, done Generals of Armies, after they had done great Victories, by receiving them into the Town with great Magnificence, and publick Acclamations. There were two Sorts among the *Romans*; the Great, that was simply call'd Triumph; and the Little, that was stil'd Ovation. They also distinguish'd Triumphs into Sea and Land Triumphs, according as the Battles were fought on either. It was generally perform'd by a sumptuous Entry into *Rome*, and sometimes on Mount *Alban*. *Romulus* was the first, who instituted this Ceremony. After he had vanquish'd *Acron*, King of the *Ceniniens*, he took an Ash, whereon he had tied that King's Spoils, on his right Shoulder, and with a Crown of Laurel on his Head, he led his Victorious Army into the Town; then stopping on Mount *Capitoline*, he mark'd out the Place where the Temple was afterwards Built, and dedicated this Ash to *Jupiter Feretrian*. And others say the Spoils were carried by Men, and that *Romulus* did but tye them to an Ash, which stood upon this Mountain. *Denis of Halicarnassus* assures, that *Romulus* was in a Chariot, and clad in a Purple Gown, tho' others affirm, that *Tarquin* the antient was the first that made his Entry thus. But let this be how it will, it's certain that since *Tarquin's* time, there was no such Triumphs during the Reigns of the Kings, and that *Valerius Poplicola*, Consul, was the first that receiv'd this Honour from
the

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the Common-Wealth; but there were many seen afterwards, for *Orosius* counts 320, from the Foundation of *Rome*, to *Vespasian's* and *Titus's* Reigns, after the Defeat of the *Jews*, *A. D.* 71, and 824 of the Foundation of the City. *Onufrius* reckons 30 from *Vespasian* to *Belisarius*. The most Famous were those of *Manlius Volso*, the 281 of *Rome*; of *Marcellus* in 531; of *Scipio Africanus* in 549; of *Q. Flaminius* in 556; of *M. Fulvius* in 561; of *Paulus Aemilius* in 586; of *Scipio Africanus* junior in 607; of *Mummius* in 608; of *Marius* in 672; and *Sylla* the same Year; of *Pompey*, when he Triumph'd the third time in 693. Those of *Julius Caesar* and *Augustus*; and finally, that of the Emperor *Vespasian*, who adorn'd his with *Moses's* Law, and the Ornaments and Sacred Vessels of the Temple, *A. M.* 71, afterwards in 274, the Emperor *Aurelian* Triumph'd with extraordinary Pomp, leading *Zenobia* Queen of the *Palmyrenians* and *Tetricus*, who revolted to the *Gauls*. The first who Triumph'd on Mount *Alban*, was *Papirius Maso* in the Year 522 of *Rome*; for not being able to obtain the Honour of an ordinary Triumph from the Senate, he went out of the Town to Triumph on this Mountain, which Example was followed by several others. The first Naval Triumph was allow'd *C. Duillius* the 493 Year of *Rome*, when he gain'd the Victory over the *Carthaginians*. This Ceremony was allow'd none but a Dictator, Consul or Praetor; for it was by a particular Priviledge, that *L. Cornelius Lentulus*, Proconsul, obtain'd the Honour of an Ovation in 553, and that *Pompey*, but a Knight, and but 14 Years of Age, was Honour'd with a Triumph in 672. The General of the Army that sued for this Honour was oblig'd to quit the Command of the Army, and stay without the Town, until it was granted him. He writ to the Senate and gave them an Account of the Victory he had won, and then the Members of this Assembly met in the Temple of *Mars*, where they read the Letters, and Swore the Captains to be assur'd of the Truth of the Contents, and that the Enemy lost 5000 Men; for that Number was necessary to obtain a Triumph. The Senate having Consented, the People were Assembled, who restor'd to the General his Command and approv'd the Triumph.

The Ceremonies were as follow: The Triumpher, Crown'd with Laurel, holding a Branch of the same in his
Hand,

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Hand, made a publick Speech to the Soldiers and People Assembled together ; then distributed his Presents and a part of the Spoil, whilst the Pomp began to appear before the Triumphal Gate, the Trumpets marching first ; then the Bulls ordain'd for Sacrifice, dress with Ribbons, and Crown'd with Flowers; and sometimes their Horns gilt with Gold : After these came the Enemies Spoils, carried either by young Soldiers or in Chariots, with the Pictures of the Nations or Towns subdu'd, represented in Gold or Silver, or form'd of Gold, Gilt-Wood, Ivory, or Wax, with their Names and Inscriptions in Capital Letters: They also carried the Representations of the most remarkable Rivers and Mountains of the Places brought by the Triumpher under the *Roman* Yoke. Then follow'd the Kings or Captive Generals in Irons, and sometimes in Gold or Silver Chains, with their Heads shav'd as a sign of their Servitude, accompanied with some Players on the Flute or Ghitars, and some Officers of the Army. Then follow'd a Buffoon, or Jester, who play'd upon the Vanquish'd, and extoll'd the Fame and Glory of the *Romans*. At last the Triumpher appear'd in an Ivory Chariot, in form of a round Tower, enrich'd with Gold ; this, in the Common-Wealth time was drawn by four white Horses ; but the Emperors made use of Elephants. *Pliny* says, it was *Pompey*, that Introduc'd this Custom, to imitate the Triumph of *Bacchus*, who, when he Conquer'd the *Indians*, had himself drawn in a Chariot or Cart by four Elephants. *Heliogabalus* had his drawn by Tygers, Lyons, and Dogs ; and the Emperor *Aurelian* his by Deer, to shew the Fear of the Enemy. The Crown at first was of Laurel, and afterwards it was of Gold ; besides which, there were several others carried before, presented him by the Provinces for the Ornament of his Triumph. His Gown was Purple, charg'd with Figures of Palm, embroider'd with Gold. He held a Branch of Laurel in his Right, and an Ivory Scepter, with a small Eagle of Gold on it, in his left Hand. The Cart or Chariot was attended by the Senators, and *Roman* Soldiers. When he came to the Capitol, he Sacrific'd to *Jupiter*, and kept a sumptuous Feast, then was Conducted into his Palace. *Tertullian* observes, that during the Pomp, an Officer stood behind the Triumpher, pronouncing these Words aloud: *Remember*

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ber thou art Man, that he might not be over proud or daz-
zled with the Luitre of his Triumph : The Attendance of
this Ceremony was sometimes so great, that it took up
several Days to March thro' the City, as happen'd in the
Triumphs of *Q. Flaminius*, *Cesar*, and *Augustus* : Some-
times the Triumpher's Children rid with him in the Carr,
as in *Paulus Emilius's* Triumph. *Pliny* reports, that the
first who Triumph'd in *Rome*, wore an Iron Ring on their
Finger, and a Crown of Gold after the *Tuscan* Fashion,
supported by a Slave, who walk'd behind, and is said to
have had Wings fastned to his Back : Yet most People are of
Opinion, that it was an Image or Sculpture, which repre-
sented Victory, and held a Crown of Olives in one, and
a Branch of Olive in the other Hand. If we may believe
several Authors, who say *Bacchus* invented this Magnifi-
cent Pomp after all his Conquests, the Ceremony is very
antient, and was imitated by most great Conquerors ; for
Alexander, in his return from the *Indies*, order'd all his
Soldiers to wear Crowns of Ivy, as *Bacchus* did. History
doth also inform us, that this Custom was Practis'd in
Europe, *Asia*, and *Africa* too ; for *Hannibal* Triumph'd
four times at *Carthage* before he dy'd, but all agree that
the *Romans* were the most Magnificent.

That of *Paulus Emilius*, which surpass'd all others in
Pomp and Magnificence, may serve to give an Idea of all,
that was most singular in these pleasant Spectacles ; for the
other differ'd only by the Diversity of the Conquests, and
Spoils of the Enemy. The first Day, Waggon's went by
laden with a great Number of rare Statues and Paintings
taken from the Conquer'd Towns. The second Day were
carried the *Macedonians* fine Arms, which were follow'd
by 300 Men, and 750 Vessels full of Coin, weighing each
three Talents ; and others carried rich Cups and precious
Vessels. The third Day, before Sun-rise, Trumpeters and
other Players upon Instruments walk'd towards the Capi-
tol ; and behind these 120 white Oxen, with their Horns
gilt deck'd with Garlands of Flowers ; these Victims were
led by young Men, who wore work'd Aprons, and carried
the Golden Axes, that were to be made use of in the Sa-
crifices. Then follow'd the Officers carrying Gold in 77
Vessels, whereof each Weigh'd three Talents, and a Cup
of Massive Gold enrich'd with Pearls, and weighing ten
Talents,

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Talents, which *Paulus Amilius* offer'd to the Gods. Then follow'd the Golden Vessels of *Perseus*, *Antigonus*, and *Seleucus*, with *Perseus's* Chariot, wherein was his Arms and Diadem. This unfortunate Prince's Children walk'd after, and after these *Perseus* himself clad in Black, attended by some of his Friends, who bewail'd his Slavery. Then immediately before the Triumpher were seen 400 Crowns of Gold, presented him by the Towns of *Greece*, in consideration of his rare Vertues, he himself appearing after in a Magnificent Chariot, cover'd with a Cloak richly work'd with Gold, holding a Branch of Laurel in his right Hand, and follow'd by Soldiers, who also had some Branches, and Sung merry and brisk Tunes. In respect of this Pomp, must be observ'd, that the Riches of Provinces contributed much to the Magnificence of the Sight: So *Pompey's* Triumphs had something extraordinary in them; for besides the Elephants, the Silver Statue of *Pharnaces*, the Silver Chariot, there were 33 Crowns of Pearl upon Tables of Gold, with an infinite Number of other Rarities of an inestimable Value. *Cesar's* Triumph did not appear much less, when he Conquer'd the *Gauls*. That of *Vespasian* and *Titus* was yet more Sumptuous, if we believe *Josephus*. In the Emperor *Aurelian's* Triumph were 20 Elephants that went first, and 200 wild Beasts of *Lydia* newly tam'd, with 600 Fencers, and an infinite Number of Slaves of all Nations; then follow'd three Chariots, whereof two were given him by *Odenat* King of the *Palmyrenians* and by the King of *Persia*; the third was that, *Zenobia*, *Odenat's* Queen, design'd for her Journey to *Rome*, whither she went indeed, but not in Triumph as she expected, but a Slave; He had another drawn by four Bucks, which was that of the King of the *Goths*; it was in this he went to the Capitol to Sacrifice the Deer to *Jupiter*. *Tetricus*, King of the *Goths* walk'd in a Scarlet Cloak, accompany'd with his Son, whom he had declared Emperor but a little before. The Queen *Zenobia* was likewise very richly Clad, and in Golden Chains of her own making. This Ceremony had Hunting Matches, Comedies, Fencing, representations of Sea-Fights, and other publick Plays, that lasted several Days after it. Of all the Emperors that Triumph'd in *Rome*, *Probus* was the last; the Senate and People contributed to the

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the Greatness of the Ceremony ; The Emperor went out of the City near the Temple of *Isis*, where having Sacrific'd with his Head Cover'd, the several Orders of Priests began their March, each having the Images of their Gods carried before them ; then follow'd the *Thenses* or Silver Chariots with two Wheels, upon which were the *Anciles* or small Bucklers, the *Palladium* and other Sacred things ; their Habits were long Cloaks, which trail'd upon the Ground, made with blue Silk, with little white stripes in them ; each carried an *Ancile* or Buckler on his Arm, as if they were at a Fight ; three or four came out of their Ranks, Dancing and Singing certain Verses, which were answer'd by all the Troop ; each Order of these Priests, as well as they that led the Waggon or Chariots with the Statues and Paintings, had their Musicians, Pantomimes, Buffoons or Jesters, that distinguish'd them from one another. There were also some in Masquerade, that shew'd extravagant Postures, and play'd on all People. The Vestals assist'd at this Ceremony, accompanied with Women which Danc'd and counterfeited Naturals ; but the Bacchantes, that follow'd the Priests of *Bacchus* did the stranger things ; all the People strove by all manner of ways to manifest their Joy, thereby to Contribute as much as lay in them to the Solemnity of the Triumph. The little Triumph was call'd Ovation, according to *Plutarch*, because that after this Pomp they Sacrific'd a Sheep, in *Latin* call'd *Ovis*. (*Chevreaux Hist. of the World, &c. Collier's Great Hist. &c. Dict.*)

(3) *Arthur.*] A *British* King, one of the Worlds nine Worthies, Reign'd, as his History tells us, in the beginning of the 6th Age ; first, he was, says *Nennius*, chief General for the *British* Kings, in their Wars against the *Saxons* ; but 'tis certain, that he was more Magnified in Songs and Romances than in true Stories ; besides the 12 Great and Successful Battles, he is said to have fought against the *Saxons*, (the last of which was at *Baden* Hills) some Historians will have him to have expell'd hence the *Saracens*, then unknown in *Europe* : to have Conquer'd *Friezland*, and all the *North-East* Isles as far as *Russia*, and to have made *Lapland* the *Eastern* Bounds of his Empire ; but when all these Exploits should be done, it does

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not appear : Certain it is, that he had no rest from the Saxons till after the 12 Battles, and then the Britains, far from seeking Conquests abroad, fell to Civil Wars at Home, for which we have *Gildas's* Testimonies ; one would think Policy requir'd of King *Arthur*, rather to have carried the War into Saxony, to keep the Saxons from coming hither, than to have gone about to Conquer Kingdoms as far as *Russia*, being scarce able here to defend his own. In short, who this *Arthur* was, and whether any such ever Reign'd in *Britain*, has been doubted heretofore, and is by some to this very Day.

(4) *Round-Table.*] A kind of Tilting or single Combat, so call'd, because the Knights that had fought at these Combats, came after they had done, to Sup with him that procur'd the Tilting, where they were set at a Round-Table. The Old *Romans* ascribe the Glory of Inventing the Tournament, Tilting, and the Round-Table, to the Famous *Arthur*, King of the Britons. And some *English* Authors write, that this Table is to be seen still, fastned to the Walls of the old Castle of *Winchester* ; which the learned *Cambden* calls in Question ; remarking, that this Table is of a later Fabrick. *Tho.* of *Walsingham* says, that King *Edward* the Confessor, who began his Reign *An.* 1042. caused an House to be Built at *Windsor-Castle*, which he call'd the Round-Table. However it be, there is this Difference between Tournaments, and the Combats of the Round Table, that the first was perform'd by Troops, and the latter were single Combats with the Lance. *M. Paris* distinguishes these two Military Exercises. *An.* 1252. in these Words ; *Non in Hastiludio illo quod Torneamentum dicitur, sed potius in illo Ludo Militari qui mensa Rotunda dicitur* (*Du Cange Differ. 7. on St. Louis's Life.*)

Of those Knights accounted absolutely Military, Knights of the Round Table may, for Antiquity Challenge the first Place. The Founder was *Arthur* King of *Britain*, Crown'd *A. D.* 516, at the Age of 15 Years ; of whose incredible Courage and Gallantry, tho' some have stretch'd too far, yet *William* of *Malmesbury* is of Opinion, he was worthy to have been celebrated by true and faithful Historians, and not false and spurious Tales : He it was that long prop'd up his declining Country, and inspir'd Martial

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Martial Courage into his Subjects, having overcome the Saxons in twelve pitch'd Battles, and conquer'd divers Countries: He liv'd in so great Repute and Renown, that worthy Knights came from all Parts to his Court, as a Seminary of Military Discipline, to demonstrate their Valour in Point of Arms. This gave him Occasion to select out of these and his own Subjects, some say, the twenty-four of the most valiant, which he united in a Fellowship; and to avoid all Controversy upon Precedency, caus'd a Round-Table to be made, whence the Order had its Appellation. He admitted not only Britains, But Strangers; and their Qualifications were to be Persons of Nobility, Dignity, and renown'd for Vertue and Valour. The Place where they were instituted was Windsor, and those others of Note, where he and his Knights assembled, were at Caerleon in Monmouthshire, Winchester, and Camelot in Com' Somerset; and their Time of convening was Whitsontide. In Winchester Castle was a large round-Table, call'd (and affirm'd to be) King Arthur's; or at least set up in the Room of one more ancient, which was destroy'd in the Rebellious Times of 41, with other Reliques there. The Articles of their Profession are set down by Sir William Segar. We find no Authentick Proof, what Badge they wore, notwithstanding the Report that King Arthur had a Shield nam'd Pridwin, wherein the Virgin Mary was depicted. His Sword and Lance had also their Names, one being call'd Caliburne, the other Irgone or Rone. Its not remember'd, that this Order surviv'd the Founder, but rather, that it expir'd with him, most of these Knights perishing with him at the Battle of Camblan, now Camelsford in Cornwall, where tho' he kill'd his Enemy Mordred, yet he died A. D. 542. It may be noted, that the like Round-Table grew in Estimation shortly after the Norman Conquest, being permitted at Hastiludes, Tilts, Tournaments, Temp. Stephen and Richard the 1st. And Roger Mortimer Earl of March, kept the Celebration of the Round-Table (consisting of one 100 Knights, and as many Ladies) with Tilting at Kenelworth Castle, in Com' Worcester (77 Edward the 1st). And King Edward the 3d, designing to restore it, held a Just at Windsor, in the 18th Year of his Reign, and in the 19th, ordain'd it annually

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to be kept there at *Witsontide*: But it was thought fit upon divers Accounts to forbid these Assemblies, and in Particular (16th of *Henry* the 3d) at *Shrewsbury*, when the King went to meet *Llewellyn* Prince of *Wales*, (and in the 36th of *Henry* the 3d,) and at many other Times. (*Ashe-mole's History of the Garter*, 8vo. Edit.)

(5) *Winchester*.] *Lat. Venta Belgarum, Vintonia, Wintonia*, is a Bishop's See in *Hampshire*, the Bishop whereof is Suffragan to the Archbishop of *Canterbury*; it lies about sixty Miles from *London*, West-South-West, pleasantly seated in a Valley under Hills, with the River *Itching* on the East, and a Castle on the West; the Town is surrounded with a Wall a Mile and half in Compass, with six Gates for Entrance. 'Tis a City of great Antiquity, noted among the *Romans* for the rich Embroideries, that were made here for their Emperors; and among the *Saxons*, for being the Regal Seat of the *West-Saxon* Kings, and the Metropolitan of their Bishop's See. During the Invasion of the *Danes* it suffer'd much. In the *Normans* Times it was twice defac'd by the Misfortune of Fire, and being repair'd, was soon after sack'd in the Civil Wars of King *Stephen* and *Maud* the Empress. But it had the Fortune still to recover, insomuch that in the Reign of King *Edward* the 3d, it came to be the Mart for Wooll and Cloth. To keep the Assizes and Sessions for the County, here is a fine Hall, where it is said King *Arthur's* Round-Table hangs up as a Monument. For the Education of Youth, here is in the Suburbs a fair College, built and endowed by *William* of *Wickham*, for a Seminary to his other College in *Oxford*, and not far from it a large Hospital for the Relief of the Poor. For the Divine Worship, here are besides the Cathedral, five Parochial Churches; the Cathedral, says *Heylin*, first Founded and Endow'd by *Kingil*, the first Christian King of the *West-Saxons*, who gave it all the Lands within seven Miles of *Winchester*. His Son *Kenelwalchin* went forwards with his Father's Fabrick, ratified his Donation, and made Additions to it: but the Church notwithstanding a large and beautiful Structure, was begun by Bishop *Walker*, continu'd by his Successors, and at last finish'd in the 14th Age by *William de Wickham*, who built the greatest
Part

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Part of the West-End thereof. The Chapels on the East-End beyond the Choir, had their several Founders. The whole Church was dedicated first to St. *Amphibalus*, then to St. *Peter*, afterwards to St. *Swithin*, once Bishop here; and last of all to the Blessed *Trinity*, as it still continues. In this Church lie interred the Bodies of King *Egbert*, the first sole Monarch of *England* since the Heptarchy, King *Ethelwolf* his Son, *Alfred* with his Queen *Elwith*, *Edmund* with his Sons *Alfred* and *Elward*; *Edred*, and *Edwin*, both Kings; *Canute* the *Danish* King, with his Queen *Emma*, *Richard* and *Rufus*, two Sons of the *Norman* Conqueror. The Bishop of this Diocese is Chancellor to the See of *Canterbury*, and Prelate of the Garter: He was antiently reputed to be Earl of *Southampton*, as the Bishop of *Durham* is Earl of *Sedburg*; but the Title has been otherwise disposed of Since.

In short, such are the Privileges, and so large the Possessions of this Bishoprick, that *Henry* of *Blois*, Brother to King *Stephen*, being Bishop of this Diocese, had got a Faculty from the Pope to make it an Archbishop's See, seven of the Suffragans of *Canterbury* being allotted thereunto. And *William de Edington*, one of the Bishops of this Church, being elected to the See of *Canterbury*, refus'd it, saying, *That Canterbury, had the highest Rack, but Winchester had the deepest Manger*. This Diocese contains the Counties of *Surrey* and *Southampton*, with the Isle of *Wight*, together with the *Norman* Isles of *Jersey*, *Guernsey*, *Sark* and *Alderney*, which were added to this Bishoprick in Queen *Elizabeth*'s Time. The two Counties, with the Isle of *Wight*, contain 362 Parishes, whereof 131 Improprate, the Isle of *Jersey* 121, and *Guernsey* with the rest as many more. Over the *English* Part there are two Archdeacons, the one of *Winchester*, and the other of *Surrey*; over the *Norman* Isles, two Deans. In the King's Books the Bishoprick is valued at 2793 *l.* 4 *s.* 2 *d.* less by 1000 *l.* than formerly it was, and the Tenths of the Clergy amount to 846 *l.* 1 *s.* (*Collier's Great Hist. &c. Dict.*)

(1) *Knights*

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The Knights of *Jerusalem* (1) were also honoured with that Title by *Godfrey of Bulloigne* (2), and in latter Times great Kings and Princes, to garnish their Kingdoms, and to honour their Nobility, could not invent a higher or more excellent Degree of Honour than Knighthood: Which had it not been more in Estimation and Worth than the rest, sure they would never have devis'd it, but found out some other; and had it been inferior too, or less than any other, questionless they would never have accepted it, in ranking themselves in the same Order, as many Noble Kings did, *viz*, our *Edward* the 3d, who erected the most Antient and Honourable Order of the *Garter*: They of *France* *St. Michael* (3), they of *Burgundy* the *Golden Fleece* (4), and they of *Savoy* the *Annunciation* (5) all with the Name and Title of Knights. No honourable Person will deny, but that Knighthood hath great Excellency amongst all other Titles of Honour; for otherwise so many great Princes would never have taken that Honour in their own Persons, as an Augmentation of their Monarchical Excellencies; as Witness *Lewis* the 11th, who was Knighted at his Coronation by *Philip* Duke of *Burgundy*; who if made a Duke, Marquess

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Marqueſs, &c. it would have detracted from
him, all theſe Titles being in himſelf.

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(1) *Knights of Jeruſalem.*] Theſe I ſhall rank into three
Classes, proceeding according to their Antiquity.

1. The Knights of the Holy Sepulchre in *Jeruſalem*,
are accounted the moſt antient; and therefore I give them
the firſt Place in Precedency.

Dr. *Heylin* reports this Order to be inſtituted *A. D.*
1099. at ſuch Time as the Temple of *Jeruſalem* was re-
gain'd from the *Saracens* by *Philip* King of *France*, yet
Favin will have it to be *Baldwin* the firſt King of *Jeruſa-
lem*; for while the *Saracens* poſſeſſed the City, there were
certain Canons Regular of *St. Auguſtin*, to whom they
permitted the Cuſtody of the Holy Sepulchre: Theſe Ca-
nons *Baldwin* made Men of Arms, and Knights of the
Holy Sepulchre, and ordained that they ſhould neverthe-
leſs retain their white Habits, and on their Breſt bear his
own Arms, which were Argent, a Croſs Potent, or be-
tween four Croſſes of the ſame, commonly called the *Je-
ruſalem* Croſs. Their Great Maſter was the Patriarch of
Jeruſalem. They were to guard the Sepulchre, fight a-
gainſt the *Saracens* and Infidels, proteſt Pilgrims, redeem
Chriſtian Captives, hear Maſs every Day, recite the Hours
of the Croſs, and to bear the five red Croſſes in the Me-
mory of our Saviour's Wounds. Their Rule was con-
firm'd by Pope *Innocent* the 3d, upon the Loſs of the Ho-
ly Land, theſe Knights retir'd to *Perugia* in *Italy*; but
retaining their white Habits, chang'd their Arms to a
double red Croſs. *A. D.* 1484. They were incorporated to
the Knights Hoſpitallers of *Jeruſalem*, then in *Rhodes*: But
A. D. 1496. *Alexander* the 6th made himſelf, and the
Popes his Succeſſors, Great Maſters thereof, and empower'd
the Guardian of the Holy Sepulchre (his Vicar-General)
to beſtow the ſame upon the Pilgrims of the Holy Land.
Philip the 2d King of *Spain*, endeavour'd to reſtore this
Order in ſome of his Dominions, about the Year 1558.
himſelf

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himself being elected Great Master. And another Attempt was made by the Duke of *Nevers* 1615, but these Designs took none Effect.

2. Of this Class are the Knights Hospitallers of *St. John Baptist* in *Jerusalem*.

Before the taking of *Jerusalem* from the *Saracens*; certain Christian Merchants of *Naples* obtain'd Leave from the *Caliph* of *Egypt* to erect a small and convenient House for the Entertainment of themselves and Countrymen, which they built before the Church of the Holy Sepulchre, together with a small Oratory. To them repaired certain Canons of the Order of *St. Augustin*, who built another Oratory; but the Confluence of Pilgrims growing great, they erected a large Hospital in the Place where our Saviour celebrated his last Supper, for the better accommodating devout Travellers, who for want of a Place to lodge in, were often robb'd and murder'd; so that at length from their Charity and Hospitality, as also for that, they took *St. John Baptist* for their Patron, they obtain'd that Title. It was instituted *A. D.* 1092. or according to others 1099, by *Gerard* Native of *Thoulouse*, who came to *Jerusalem* in the Time of *Godfrey* of *Bulloigne*, and built this Hospital (which became the first Seat of this Order) dedicated to *St. John* of *Cyprus* Bishop of *Alexandria*, commonly called *Johannes Eleemosynarius*. And King *Baldwin* the 1st conferred on them large Privileges, permitting them Arms, and instituted them to be Knights, *A. D.* 1104. Their Duty was to fight against the Infidels, and they acknowledged Obedience to the Patriarch of *Jerusalem*, but growing Rich, they obtain'd from *Rome* to be absolv'd from that Obedience. Pope *Gelasius* the 2d, or *Calixtus* the 2d, *A. D.* 1130, confirm'd their Rule of living; and *Adrian* the 4th received them under the Protection of the Papal See, being likewise endow'd with ample Privileges, and exempted from Payment of Tithes, by succeeding Popes, chiefly by *Pius* the 4th. They took the black Habit of Hermits of *St. Augustin*, and lived under his Rule by Grant of *Honorius* 2. Anno H. 25. vowing Obedience, Poverty, and Chastity; and on the Breast of their Habit wore at first a plain Cross of

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of white Cloth, which was after chang'd to one with eight Points. But in Time of War they us'd a red Cassock, bearing the white Cross upon it. Unto *Gerard* succeeded *Raimund*, who digested and enlarg'd their Laws and Institutions, in the Composition whereof his Stile was, *Raimundus, Dei Gratia, Servus Pauperum Jesu Christi, & Custos Hospitalis Jerusalem*; but afterwards he and his Successors had the Title of Great Master of the Order given him, to denote his Power and Authority, at this Day he has the Title of Prince of *Malta* and *Goza*. Among his Privileges, he seals in Lead, as doth the Pope and Doge of *Venice*; he acknowledges the Pope for his Head, and the King of *Spain* for his Patron; he had under him in several Kingdoms, Priors; some of whom had also the Addition of Great; with us in *England* he was stil'd *Prior Hospitalis St. Joannis Jerusalem in Anglia*, and by that Title was he summon'd to the Parliament as a Baron of this Kingdom, and at length for Place and Precedency was rank'd the first Baron; and the Greatness of these Knights grew to such Height, that *Temp. Henry* the 3d. they had in Christendom 19000 Manors. When *Saladine* took *Jerusalem*, these Knights retreated to *Acres* or *Ptolemais*, and that being taken, they seiz'd upon the Island of *Rhodes* *A. D.* 1308. whence they began to be call'd Knights of *Rhodes*: But *A. D.* 1522, being driven thence by *Solyman*, they betook themselves to the Island of *Malta*, which with *Tripoli* and *Goza*, were granted to them in Fee by the Emperor *Charles* the 5th, *A. D.* 1530. under the Tender of one Falcon yearly to the Vice-Roy of *Sicily*, and to acknowledge the King of *Spain* and *Sicily* for their Protectors. In this Isle they continue a Bulwark to those Parts, and from this their Settlement are called Knights of *Malta*.

3. Of this last Class are the Knights *Templars*. About the Year 1117, 1118, 1119 or 1120. This Order took beginning, *Baldwin* the 2d then reigning in *Jerusalem*; when nine Gentlemen, of whom two of Noble Extraction, *Hugh de Paganes* and *Godfrey de St. Omer*, came in Devotion to the Holy Land; They were call'd *Brothers of the Militia of the Temple*, ordinarily *Knights Templars*,

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plars, from the Habitation assign'd them out of a Part of the King's own Palace, adjoyning to the Temple of *Solomon* in *Jerusalem*. Their first Undertaking was to guard the most dangerous Ways about that City against the Violences and Robberies of the *Saracens*, which made them acceptable to all, and for which they had Remission of their Sins: But for the first nine Years, they were yet so poor, that they liv'd upon the Alms of others; wore Cloaths bestow'd in Charity upon them, and rode two on one Horse, in Memory of which Primitive Poverty, their Seal had the Impress, which is represented in *M. Paris*, *A. D.* 1127. They had Rules assign'd them drawn by *St. Bernard*, Abbot of *Clairvaux* by the Appointment of Pope *Honorius* the 2d, and *Stephen* Patriarch of *Jerusalem*. They made their Vows of Obedience, Poverty and Chastity, and to live under the Rules of Canons Regular of *St. Augustin*. Their Habit was white, to which, *Temp. Eugenii* 3. they added the red Cross, and of the same Form that the Hospitallers wore (*Favin* says a Patriarchal Cross), and sew'd it on the left Shoulder of the *Maulles*; these with the Holy Sepulchre-Hospitallers and *Teutonicks*, principally supported a long Time the Kingdom of *Jerusalem*. But when Riches increased and their Revenues augmented, they grew Proud, fell from the Obedience of the Patriarch to join with the Pope; and at last 1307, all the Knights of this Order in *France*, were in one and the same Hour seiz'd and imprison'd by *Philip le Bel*, King of *France*, with Consent of Pope *Clement* the 5th, being charg'd with most infamous and damnable Crimes. And in *England*, *Anno* 1 *Ed.* 2. they were also apprehended afterwards, rendred Convicts, and all their Possessions seiz'd into the King's Hand. Howbeit, the Bishop of *York* commiserating their deplorable Condition within his Diocese, charitably dispos'd of them in Monasteries under his Jurisdiction: Two Years after many of these Knights were burn'd in *France*, and *Jacques de la Maule*, the last Great Master, suffer'd the same Fate, having seen, *A. D.* 1312. his Order by Papal Authority condemn'd and perpetually dissolv'd. After which their Lands were annex'd to the Hospitallers, for their Service against the *Turks*: Thus they fell no less famous for Martial Atchievements in the East, than their Wealth in the West;

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West; for they enjoy'd 16000 Lordships in *Europe*; and a *Spanish* Author tells us, their Revenue was two Millions yearly, and they had in Possession 40000 Commanderies, which occasion'd divers to think they were falsely accus'd, and by suborn'd Witnesses, merely upon the Ambition and covetous Design of *Philip* King of *France*, (*Ashmole's History of the Garter, new 8vo Edit.*)

(*Godfrey of Bulloigne.*) Called the Christian *Hercules* Prince of *Lorrain*, having given frequent Proofs of an invincible Courage under the Emperor *Henry VI.* whom he served with great Success in *Germany* and *Italy*, was chosen General of the Expedition, which the Christians undertook for the Recovery of the Holy-Land, sold his Hereditary Dukedom of *Liege* to *Othbert* Bishop of the Diocese, and laid out the Money in his Preparations for the War. The *Greeks* opposing the March of his Army, he constrain'd *Alexius Comnenus* to give him free Passage, and to dissemble his unjust Jealousies. In the Year 1097. he vanquish'd *Solyman*, Sultan of the *Turks*, and took *Nice* after a Months Siege, then *Antioch* and *Edessa*, and in four Years Time subdu'd *Lycaonia*, *Cilicia*, *Syria* and *Mesopotamia Comagena*, which struck such a Terror into the *Saracens*, that the Caliph of *Egypt* by his Ambassadors sued for Peace. In 1099, he took *Jerusalem*, and by the general Consent of all the Christians of the Army, was crown'd King of *Judea* with a Crown of Thorns: After which his Army being extreamly wasted, the Sultan of *Egypt* taking his Advantage, sent into the Field against him an 100000 Horse, and a proportionable Number of Infantry which were all defeated with the Slaughter of above 100000 of the Enemy; and that Victory gain'd him the quiet Possession of the Holy-Land. But he enjoy'd his Conquests but a very small While; for he died in the Year 1100. (*Collier's Great Historical, &c. Dict.*)

Verstegan shall explain this, I have shew'd before faith he, the Etymology of *Fredegode*, which with *Godefrid*, or *Godefred* is all one, only differing in the transposing of the Syllables, both signifying good Peace; it is much varied from the first Original, as of *Godfrid* being made *Godfrey*, from thence *Gauffrey*, by others again *Geoffrey*; and not so let alone, it is thence turn'd into *Jeffrey*, and
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in *Latin* to *Galsfridus*, albeit some more rightly make it *Godefridus*.

(3) *St. Michael*. *Lewis* the 11th, King of *France*, considering how his Affairs were entangled, to re-unite the Affections of his Nobility to himself, instituted these Knights in 1469, giving them their Denomination from *St. Michael* the Archangel, the titular Angel, and Protector of *France*, in Reverence of whom their antient Kings were wont to solemnize his Feast-Day with great Magnificence, and keep an open Court. Their Number at first were to be thirty-six, whereof the King and his Successors were Chief, but it afterwards proceeded to three Hundred. The Collar is compos'd of Escallop-Shells of Gold, join'd one with another and double banded, fastned on small Chains of Gold, at the End of which is annex'd an Oval of the same; and therein on a Hillock is the Figure of *St. Michael*, combating and trampling down the Dragon. The Motto, *Immensis Tremor Oceani*. The Habit was a Mantle of white Damask, hanging down to the Ground, furr'd with Ermin, having its Cope embroider'd with Gold, and the Border of the Robe interwoven with Escallops of Gold; the Chaperon or Hood, with its long Tippet was made of Crimson-Velvet; but afterwards King *Henry* the 2d order'd this Mantle to be Cloth of Silver embroider'd with three Crescents of Silver, interwoven with Trophies, Quivers and *Turkish* Bows, seam'd and canton'd with Tongues and Flames of Fire, and the Chaperon of Crimson-Velvet should have the same Embroidery. Their grand Festival was to be celebrated on *Michaelmas-day*, at the Church of *Mount-Michael* in *Normandy*; but afterwards transferr'd to *Bois de Vincennes* near *Paris*. There is an Herald of Arms to attend this Order, call'd *Monsieur St. Michael*. Upon the Instituting the *Order of the Holy Ghost*, not only Care was taken to preserve that of *St. Michael*, and to rectify it, but the Knights had the Privilege allow'd them, that if they thought fit, they were made capable of receiving that of the *Holy Ghost*, which no Stranger or Native could be inrolled in, that had taken upon him any other Order. The Collar of *St. Michael* may be worn with that of the *Holy Ghost*, and it is now frequently us'd.

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The Evening before any receive the *Order of the Holy Ghost*, he is admitted into the *Order of St. Michael*. (*Ashmole's History of the Garter, new 8vo Edit.*)

(4) *The Golden Fleece.*] This Order had its Original from *Philip* the 2d, Duke of *Burgundy*, surnam'd the Good, the 10th of *January* 1429. at his Marriage with *Elizabeth* Daughter of *Portugal*, in the City of *Bruges* in *Flanders*, to perpetuate the Memory of his great Revenues rais'd by the Wool-Trade with the *Low-Countries*. Some say, in Commemoration of *Gideon*, who with 300 Men vanquish'd a numerous Army of the *Midianites*; or of *Jacob's* Fleece, viz. the Party-colour'd and streak'd Fleece, after the Example of *Jason* and his *Argonauts*, whose Expedition to *Colchos*, he intended to make his Pattern by a Voyage into *Syria* against the *Turks*. He Founded it to the Glory of the Almighty Creator and Redeemer, in Reverence of the Virgin *Mary*, and *St. Andrew* the Apostle, who was Patron thereof, and whose Festival was celebrated on that Day, but afterwards translated to the 1st of *May*, by Reason of the Shortness of the Days, and the Fatigue antient Knights would find to convene in an intemperate Season. The Knights at first were twenty-four, besides the Duke, Chief, and Supream, who reserv'd the Nomination of 6 more at the next Chapter, but *Charles* the 5th increased them in 1516, to 50. Duke *Charles* and *Maximilian*, Sons to the Founder, annex'd many Privileges to them, which were confirm'd in 1556. For their Habit, three different Mantles were ordain'd them at the grand Solemnity; the first Day of Scarlet-Cloth, richly embroider'd about the lower End, with Flints struck into Sparks of Fire and Fleeces, with Caperons of the same; and the same Day after Dinner, to proceed to *Vespers* in Mantles of black and of the Colour of Chaperons; the Day following they were to hear Mass, habited as they thought fit; but Duke *Charles* aforesaid prescrib'd them Mantles of white Damask for that Days Ceremony, and chang'd their Cloth-Mantles into Velvet. The Great Collar is compos'd of double Fusils, plac'd back to back, two and two together, in Form of the Letter *B.* representing both Ways to signify *Burgoigne*; and these Fusils are interwoven with Flint-Stones, (in Reference to the Arms of
the

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the antient King's of *Burgoigne*) seeming to strike Fire; and Sparkles of Fire between them, the Dvice of the Founder; at the End whereof hung the Resemblance of a Golden-Fleece, enamell'd proper. To the Flint *Paradine* ascribes the Motto, *Ante ferit quam flamma micet*; and to the Fleece, *Pretium non vile Laboris*. The Jewel is commonly in a double Chainet or Males of Gold, link'd together at convenient Distances, between which runs a small red Ribbon, or otherwise it is worn in a red Ribbon alone. The Emperors of *Germany* descended from *Philip*, Archduke of *Austria*, Duke of *Burgundy* and Count of *Flanders*, were the Sovereigns of it, till *Charles* the 5th gave the Guardianship of it to the King's of *Spain*, which he perform'd the 25th of *October*, 1556. conferring it on his Son King *Philip* at *Brussels*, when he took the Collar from his Neck, and with his own Hands put it over his Son's Shoulders in the Presence of divers of the Knights, with this Form; *Accipe, Fili mi, quem e collo meo detraho, tibi praeipuum Aurei velleris Torquem, quem Philippus Dux Burgundiae cognomine Bonus, Atavus noster, monumentum Fidei sacra Romana Ecclesia esse voluit, & hujusce Institutionis ac Legum ejus, fac semper memineris*. Since which the Honour of being Chief of this Order, remains at this Day in that Crown. (*Ashmole's History of the Garter, new 8vo Edit.*)

(5) *The Annunciation.*] Knights of the *Annunciade* in *Savoy*, *Ame.* the 6th Earl of *Savoy* instituted, under the Title of the Collar 1362. in Honour of the fifteen Divine Mysteries of the Rosary. *Favin* on a mistaken Ground, calls it the *Order of the Snares of Love*, in regard its Founder had receiv'd of his Lady a Bracelet made of the Tresses of her Hair, plaited in Love Knots, and that the four Letters, after interlac'd by the Founder, should signify *Frappes, Entres, Rompes, Tout*: It is conspicuous enough at the first Erection, it was call'd of the Collar, and so remain'd till *Charles* the 3d, or *Le Bon* Duke of *Savoy* bestow'd on it the Title of the *Annunciation*, from the Picture of the *Annunciation*, which he annex'd to the Collar 1518. The Founder appointed the Number of his Knights to be fifteen, among whom Sir *Richard Musard*, an *Englishman*, is recorded 1434 and 1568, their Number was increased to
twenty,

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twenty, that being solely lodged in the Breast of their Sovereign; *Rien-Castle* in *Buger*, was their principal Seat; they had a *Chartreuse* to entertain fifteen Priests to celebrate fifteen Masses to the Honour of the fifteen Joys of the Blessed Virgin, and to the Souls Health of these Knights; and here were their Ceremonies and Chapters held, until *Charles Emanuel* the 1st, exchange'd it and other Places for the Marquisate of *Saluces*, 1607, on the Anniversary of the Feast and Celebration of the Order (being fix'd upon the Day of the *Annunciation*). They were translated first, to the Church of *St. Dominick* at *Montmelier*, and afterwards by him to the Hermitage of *Camalduke* upon the Mountain of *Turin*, call'd *L'Eremo Affis*. The ancient Collar was of Gold, three Fingers broad; in barbarous Characters were engrav'd these Letters, *F. E. R. T.* and one Knot (commonly call'd the *Savoy-Knot*) at the End of each *Fert*; which with three other Knots, entwined one within another, made up the Circumference pendant at the Collar without any Figure: These old Characters are supposed to be the Initials of *Fortitudo ejus Rhodum tenuit*, alluding to *Amadeus le Grand*, who so valiantly defended *Rhodes* against the *Turks* in 1310. But that this was long before the Devise of the House of *Savoy*, is manifest from the Coins of *Lewis de Savoy*, Baron *de Vaud*, who died 1301. The Monument of *Thomas de Savoy*, who died 1233; whereon was lying at the Feet of his Portraiture, a Dog with a Collar about his Neck, inscrib'd *Fert*, as an integral Word; and from a Brass Coin of the said Earl's, on the Reverse whereof are two Knots of the Model before spoke of, and the Word *Fert* in the Midst. There is the Estype of a Silver Coin of *Peter de Savoy* (who erected in *England* the Noble Pile of that Name in the *Strand*, *Temp. H. 3.*) wherein is Represented the Devise *Fert* in *Gothick* Characters, the true Interpretation of which Word cannot be explain'd; this antient Collar is still in Vogue and daily worn, but now called the little Collar, fashion'd of Gold or Silver gilt, about an Inch broad, and of different Weight. The Knights wear it about their Necks, close to the Collar of their Doublet; Duke *Charles* the 3^d, as he much restor'd the Splendour of this Order, *Anno* 1518. introduced the larger one, only wore upon high Days, it weighs about

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two hundred Crowns, and is composed of the Word *Fert*, interwoven with Knots, sever'd with fifteen Roses of Gold, whereof seven are enamell'd with white, and seven with red, and border'd with two Thorns. The Figure of the *Annunciation* is enamell'd in various Colours, pendant at three Chainets to another Rose colour'd both white and red. He first appointed the Great Mantle of Crimson-Velvet, his own being furr'd with Ermines, but the rest of the Knights with Miniver, fring'd and border'd with *Savoy* Knots in fine Gold. Under this Mantle is worn a Surcoat of fine Damask. Duke *Emanuel Philibert*, his Son, alter'd the Colour of the Mantle to Azure, and lin'd it with white Taffaty, of which Silk he made the Surcoats. *Charles Emanuel* chang'd the Mantle into an *Amaranthus* or Purple Colour, feeded with Roses and Flames in Embroidery of Gold and Silver, and lin'd with Cloth of Silver tissu'd Blue, now in Use; under which, instead of the white Taffaty Surcoat, is now worn a white Sattin Suit, embroider'd with Silk, the Hose gather'd upwards in the Fashion of Trousers. (*Aslmole's History of the Garter, new 8vo Edit.*)

(1) *Pri-*

The Privileges (1) of a Knight were many and great; amongst which, if one under Age had been made a Knight, he was thereby presently freed from the Wardship (2) of his Person, in Respect of his Readiness to perform Knight's-Service in his ovvn Person, which before was to be done by his Guardian (3). And this Privilege was denied to all Noblemen; for if any of them, being under Age, had been made a Duke, Earl, Viscount, or Baron, he was notwithstanding under Wardship still:
Also

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Also if a Villain (4) had been made a Knight, he was immediately enfranchised thereby. Moreover by the antient Laws of the Kingdom, if a Ribald, or one of base Birth, had struck (6) a Knight, he should have lost his Hand: And the antient Laws had such regard to that Degree, that neither Knights nor their eldest Sons were compellable to find Pledges in View of Frank-Pledges (7) or Law-Days (8).

If

(1) *Privileges.*] The Dignity of a Knight in antient Time, is also shewn by his doing and performing of Grand-Serjeant in Person, when others who held Lands of the King by that Tenure, to, &c. and were not of the Dignity of a Knight, were not, nor could be receiv'd thereunto, but oblig'd to make a sufficient Deputy; As for Example, At the Coronation of King *Richard* the 2d. *J. Wiltshire*, Citizen of *London*, exhibited his Petition to the High Steward of *England* in his Court, that where the said *John* held certain Lands in *Hayden* in the County of *Essex*, of the King by Grand-Serjeantry, viz. to hold a Towel, when the King should wash his Hands before Dinner the Day of his Coronation, &c. and pray'd, that he might be accepted to do this Office of Grand-Serjeantry: The Judgment followeth, *Et quia apparet per Record de Scaccario Domini Regis in Curia, monstrat, quod prædicta Tenementa tenentur de Dom' Rege per Servitium prædict' : Ideo dictus Joannes admittitur ad Servitium suum hujusmodi faciendum per Edmundum Com' Cantabrigie Deputatum suum, & sic idem Comes in jure ipsius Joannis Manutergium tenuit, quando Dom' Rex lavabat manus suas dicto die Coron' suæ ante prandium.* By which Record it appeareth, that the said *John Wiltshire* being

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being of this Quality, and having not any Dignity, could not do and perform this High and Honourable Service to the Royal Person of the King, but did make an Honourable Deputy, who perform'd it in his Right, which is worthy of Observation.

At the same Coronation *W. Furneal* exhibited his Petition to the same Court, that where he held the Manor of *Farnham* in the County of *Bucks*, with the Hamlet of *Cere* in the same County, by the Service to find to the King at his Coronation, a Glove for his Right-hand, and to support the King's Right-hand the same Day, while he held the Verge-Royal, the Judgment followeth; *Qua quid petitione debite intellecta, Et facta publica proclamatione, si quis clam eo ipsius Willielmi in ea parte contradicere vellet, nemineque ei contrariante, consideratum fuit, quod idem W. Assumpto per eum primitus ordine militum, ad servitium predictum admitteretur faciend'. Et post modo (viz. Die Martis proximo ante Coronationem predictam. Dom' Rex ipsum Willielm' apud Kensington Honorifice prefecit in Militem, Et sic idem W. servit' suum predicto die Coronationis juxta considerationem predictam perfecit Et in omnibus adimplevit*; by which it appears, that a Knight is of that Dignity, that he may perform this High and Honourable Service in his own Person; and tho' this *William Furneal* was descended of an Honourable Family, yet before he was created Knight, he could not perform it; And Sir *John Argentine*, Chevalier, perform'd this Service of Grand-Serjeantry to be the King's Cup-bearer at the same Coronation. (*Co. Inst. 1. Fol. 107.*)

And as a Respect of Honour by the antient Law also, it seems, the *Equitatura*, or Horse and Armour of a Knight that liv'd in Noble Reputation, and was ever ready to do the King and Country Service, were privileg'd from Executions of *Fieri facias*, or *Levari facias*, altho' they were to levy the King's Debts, and if the Knight were in the King's Pay, and dishonourably absented himself, when his Aid was requir'd, all that he had, was then subject to the Execution, saving one Horse, which was to be left him *propter Dignitatem Militie*; and tho' he so liv'd, that he were neither ready for any publick Employment, of Arms, nor had dishonourably declin'd any such Employment, yet such of his Horses as were for his ordinary Use, were spar'd,

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spar'd, and what else he had was subject to the Execution. And thus *Equitature* of a Knight, was as his *Contentementum* or Countenance, as it was anciently call'd, (*Stat. 2. 1 Ed. 3. Cap. 4. ubi male Continuence in nonnullis Editionibus legitur.*) *Seld. Tit. Hon.*

The Degradation of a Knight is also a Respect of Honour to Knighthood in general, altho' by Reason of the Ceremonies us'd in it, and because it is the contrary of Creation, *Selden* hath made it a several Member of his Division concerning Knights. For as by the Canon-Law (saith he) when for any grievous Offence, a Clergyman is to be delivered over to secular Punishment, (lest the rest of his Dignity should suffer also in the Infamy, which he suffers in his Punishment) he is first to be degraded from the Dignity he hath in the greater or lesser Orders, as also he is to be, when his Fault punishable by the Church is so great, that it were too scandalous to the Rest of his Dignity, if he being condemn'd should suffer the Punishment, and yet remain in his Degree of Orders: So for the Honour due to Knighthood in general, some Examples, are, that when Judgment of Treason hath been to be given against one, that had formerly receiv'd the Order, he hath been first degraded from his Knighthood, lest so much Ignominy that accompanied the Judgment for such an Offence should lie on any that were a Knight, when he suffer'd it. And also as by the Canon Laws, the Ceremony of Degradation from any Degree of Orders, is by a solemn taking away those Things from the Clerk, wherewith he was so invested at his taking the Order, from which he is degraded; so the Ceremonies of Degradation of a Knight were in antient Times, such, as that the Sword with which he was girt at his Knighting, and the Spurs that were put on him, were to be publickly taken off from him, as also his Shoes and Gloves, according to *Thomas of Walsingham* (Pag. 118.) in the Degradation. And for the Matter of Degradation of a Knight; see more in *Sir William Segar's Honour Military and Civil.* (*Lib. 2. Cap. 4.*)

We may justly enough add here a kind of Temporary Degradation or Suspension of the Honour (pretended at least) by a Sentence of Penance given by the Archbishop of Canterbury *John Peckham*, together with the Bishop of

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Salisbury as Delegates, in 1285, or 3 Ed. 1. against Sir Osbert Giffard Knight, for stealing two Nuns out of the Abbey of Wilton: It was, that he should never come into any Nunnery more; that he never should be so much as in Presence of any Nun without Licence of his Diocefan; that he should go thrice *Nudus in Camisia & Femoralibus*, in Wilton Church (but not in the Presence of the Nuns), and every Time *Fustigetur*. So likewise in Salisbury Market, and in Shaftsbury Church. *Præterea* (saith the Sentence) *Insignis Militaribus interim sit privatus, nec Calcaria Deaurata, nec Gladium, nec sellam Militarem aut Deauratas Phaleras habiturus, nec vestes coloratas, sed tantummodo in Russeto cum Agninis pellibus vel Ovinis, nec Calceamenta nisi vaccina; nec utatur Camisia postquam prædicto modo fuerit Fustigatus. Et hæc omnia sibi injungimus in virtute præstiti juramenti, ut taliter extra militiam agat vitam, donec per Triennium steterit personaliter & integre in Terra Sancta, nisi infra Triennium Dominus Rex illustris ipsum revocandum duxerit ex Gratia speciali.* (Regist. MS. 1. Peckham. Arch. Cant. Fol. 119. 9 Kl. Martii.) *Tit. Hon.*

(2) *Wardship.*] The having a Supply of full Age by receiving the Dignity of Knighthood, must be taken as a special Honour given to Knighthood in general; for tho' it be regularly supposed in Law, that no Heir of a Tenant by Knight's-Service is able to do the Service himself, until he be of the Age of twenty-one Years, (which is the Reason and Ground of all our Wardships of Male Heirs) yet if any such be Knighted, either in the Tenant's Lifetime, or after his Death, of what Age soever he be, he is adjudg'd for that Purpose only as of full Age, and the Wardship of his Body in one Case is prevented by it, and in the other Ends with it. For in Regard that by the Laws of Honour, he is adjudg'd to be a Knight, therefore by the Common-Law he is likewise adjudg'd so able to do the Service, as that his Body needs no farther Tuition of a Guardian over it. And so is the Law at this Day in Practice, and also it was so anciently, as we see by Grand Charters, both of King John and Henry the 3d, where we read, *Si Heres infra ætatem fiat Miles, nihilominus terra remaneat in Custodia Dominorum suorum usque*

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usque ad aetatem 21 Annorum; that is, tho' the Wardship of the Body be ended (in the Case of Knighting after the Death of the Tenant by receiving the Order of Knighthood) yet the Land continues to the Lords, until the full Age of the Heir, as if he had not receiv'd the Order. From this Reason was it, that under *Henry* the 2d, some are fin'd for procuring others than the King (for so I understand it according to the Law of that Time) to Knight any of the King's Wards, whereby he lost the Wardship of the Body. (*Seld. Tit. Hon.*) *Wardi & Liberature*, was a Court first erected by King *Henry* the 8th, and afterwards augmented by him with the Office of Liveries, and therefore stil'd the *Court of Wards and Liveries*. But it is absolutely taken away and abolish'd by the Statute made 12 *Car. 2. Cap. 24.*

(3) *Guardian.*] *Gardeyn*, or *Gardian*, *Custos* cometh of the *French Gardien*, and yet the *German* Word *Warden* is nearer to it, it signifies generally him that hath the Charge or Custody of any Person or Thing; but more notoriously him, that hath the Education or Protection of such People as are not of sufficient Discretion to Guide themselves and their own Affairs, as Children and Ideots, being indeed as largely extended as Tutor and Curator among the Civilians; for whereas Tutor is he, that hath the Government of a Youth, until he come to fourteen Years of Age; and Curator he, that hath the Disposition and ordering of his Estate afterwards, until he attain to the Age of twenty-five Years; or he that hath the Charge of a frantick Person during his Lunacy, we use only Guardian for both these. And for the better understanding of the Law in this Point, we are to observe, that a Tutor is either *Testamentarius*, or a *Prætorè datus ex lege Attilia*, or lastly, *Legitimus*. So we have three Sorts of Guardians in *England*; one ordain'd by the Father in his last Will, another appointed by the Judge, the Third cast upon the Minor by the Law and Custom of the Land. Touching the First, a Man having Goods or Chattels, may appoint a Guardian to the Body or Person of his Child by his Last Will and Testament, until he comes to the Age of fourteen Years, and so the disposing and ordering his Estate so long as he thinks meet, which is commonly

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to twenty-one Years of Age. The same he may do of Lands not holden in *Capite*, or by Knight's Service; but the antient Law in this Case is very much alter'd by the Statute of 13 *Car. 2. Cap. 24.* which in all Cases gives the Father Power to appoint a Guardian for his Child. But if the Father order no Guardian to his Child, the Ordinary may appoint one to manage his Goods and Chattels, till the Age of fourteen Years, at which Time he may chuse him another Guardian, according as by the Civil Law he may his Curator; for we all hold one Rule with the Civilians in this Case; and that is, *invito non datur Curator*; and for his Lands the next of Kin on that Side, by which the Land cometh not, shall be Guardian, and was heretofore called Guardian in Socage. See more of the old Law in the Case 28 *Ed. 1. Stat. 1.* and *Fortescue de laudibus Legum Ang. Cap. 44. Stansf. Prerogative, Cap. 1. Old Nat. Brev. fol. 94,* and *Skene de verbor. signif. verbo varda*; from whom you may learn the great Affinity, and yet some Difference between the Law of *Scotland* and ours in this Point. (*Cowel's Interp.*)

(4) *Villain.*] *Villanus* signifies as much as *Servus* among the Civilians, a Man of servile or base Degree, from the *French, Vilain, Vilis*, or from the *Latin, Villa*, a Country-Farm, whereto they were deputed to do Service; of these Bondmen or Villains, there were two Sorts in *England*, one term'd a Villain in gross, who was immediately bound to the Person of his Lord and his Heirs; the other a Villain regardant to a Manor, whom the Civilians term *Gleba Adscriptitium*, being bound to his Lord as a Member belonging and annex'd to a Manor, whereof the Lord was Owner. (*Smith de Rep. Anglor. Lib. 3. Cap. 10. and Bracton Lib. 1. Cap. 6. Num. 4.*) He was properly a pure Villain, of whom the Lord took Redemption to marry his Daughter, and to make him Free; and whom the Lord might put out of his Lands and Tenements, Goods and Chattels at his Will, and beat and chastise, but not maim him. There are not truly any Villains now, tho' the Law concerning them stands unrepeal'd: We have hardly heard of any Case in Villainage, since *Crouche's Case* in *Dyer*; and *Spelman* says, *Servorum & Nativorum apud nos sublata est conditio,*

quas

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quas ideo possidebant terras vel pradia, hodie libere tenent sub antiqua Servitutis consuetudinibus. (Cowel's Interp.)

(5) *Ribald.*] *Verstegan* in his *Restitution of decay'd Intelligence*, amongst others of our *English* Names of Contempt, says thus of the Word *Ribald*, viz.

This (saith he) was at the first *Rabod*, as yet in the *Netherlands* it is used, whence both we and the *French* having taken the Name, have somewhat varied both in Orthography and Sense. It was the proper Name of *Rabod*, a Heathen King of *Friesland*, who being instructed in the Faith of Christ by the Godly Bishop *Ulfran*, faithfully promised to be baptiz'd, and appointed the Time and Place; where being come and standing in the Water, he ask'd of the Bishop, where all his Forefathers were, that in former Ages were deceas'd. The Bishop answer'd, that dying without the Knowledge of the true God, &c. They were in Hell: then, quoth *Rabod*, I hold it better, and more Praise-worthy to go with the greater Multitude to Hell, than with your few Christians to Heaven; and therewithal he went out of the Water unchristened, and returned both to his wonted Idolatry, and to his evil Life, notwithstanding the good Admonitions of the Bishop, and an Evident Miracle, which (through the Power of God) the said Bishop wrought even in his own Presence. He was afterwards surpriz'd with a sudden and unprovided Death, about the Year of our Lord 720; and his very Name became so odious through his Wickedness, that it grew to be a Title of Reproach and Shame, and hath so continu'd ever since. Thus *Verstegan*.

Cowel (in his *Interpreter*) saith, *Ribaldus*, *Ribaud*, *Ribald*, French, *Ribaud* is a Vagrant, luxurious Spendthrift, a Rogue, Whore-monger, a Person given to all Kinds of Wickedness and Looseness; one of base, mean Extraction. *Petition against Ribauds and Sturdy-Beggars.* (Rot. Parl. 50. Ed. 3. Num. 31.)

Ribaldus, *Homo nequam, nebulo, Furcifer, ex face Plebis; vagus, dissolutus, Luxuriosus, Spurcus, a Gall. Ribauld. Willielm. Episc. in Synod. apud Bochel. Lib. 6. Cap. 22. Statuimus quod Clerici Ribaldi, maxime qui dicuntur de Familia Gotia - - - tonderi precipiantur. Et ex Concil. apud Castrum Comterii. An. 1231. Ibid. Lib. 8. Cap.*

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Cap. 6. --- Statuimus quod Clerici Ribaldi, maxime qui Goliardi vulgo dicuntur, præcipiantur tondi, vel etiam radi, &c.

Semper autem non videtur accipi Ribaldus in malam partem; aliquando autem pro inferioribus ministris. Destructor. vicior. Part 5. Cap. 2. --- Dicunt enim (Prælati) tanta Familia nobis necessaria est, tot milites, tot Clerici, tot Armigeri, tot Servientes, & tot Famuli, & tot Ribaldi, quod vix sufficiunt quacunque de Ecclesia possidemus, &c. Item Brito Armorican. Philippid. Lib. 3.

*Et Ribaldorum nihilominus Agmen inerme
Qui nunquam dubitant in quavis ire pericla. (Spel. Gloss.)*

(6) *Struck a Knight.*] That in Bretton (saith Selden) is observable, touching the Punishment of a Ruffian, that had without Cause struck a Knight, by the Loss of his Hand, wherewith he struck him, though he remembers not an Example of it in Practice. (*Cap. d'appelle des Maibem*). But in the Pipe-Rolls of Henry the 2d, one is Fin'd at 100 l. for striking a Knight (neither doth the Roll mention him by his own Name, but only the Title of Miles) and another at 40 Marks, because he was present, when the Knight was compell'd to swear, that he would not complain of the Injury done to him, *Hakelinus Filius Joscii Quatribusches* (saith the Roll) *debet centum libras ut sit quietus de hoc quod militem percussit: Moyes de Cantabrigia reddit computum de 40 Marcis, quod confessus est se interfuisse ubi Miles ille coactus fuit affidare quod non ostenderet Injuriam sibi illatam, in Thesauro 20 Marca, & debet 20 Marcas. (Tit. Hon.)*

(7) *Frank-Pledges.*] Frank-Pledge, *Franciplegium*, from the French Frank, *Liber*, and Pledge, *Fidejussor*, signifies a Pledge or Surety for Freemen. For the ancient Custom of Freemen of England, for the Preservation of the Publick Peace, was, that every Free-born Man at fourteen Years of Age according to *Bracton*, (Religious Persons, Clerks, Knights, and their eldest Sons excepted) should find Surety for his Truth towards the King and his Subjects, or else be kept in Prison: whereupon a certain Number of Neighbours became customably bound one for another,

to

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to see each Man of their Pledge forth-coming at all Times, or to answer the Transgression committed by any broken away ; so that whosoever offended, it was forthwith enquir'd in what Pledge he was, and then they of that Pledge either brought him forth within thirty-one Days to his Answer, or satisfied for his Offence. This was call'd *Frank-pledge*, and the Circuit thereof *Decenna*, because it commonly consisted of ten Households, and every particular Person thus mutually bound for himself and his Neighbours, was call'd *Decennier*, because he was of one *Decenna* or another ; this Custom was so kept, that the Sheriffs at every County-Court did from Time to Time, take the Oaths of young ones, as they attain'd the Age of fourteen Years, and see that they compriz'd in some *Dowzen* ; whereupon this Branch of the Sheriff's Authority was stil'd *Visus Franci Plegii*, View of Frank-pledge. See the Statute for *View of Frank-pledge* made 18 Ed. 2. That we borrow'd this Custom of the *Lombards*, manifestly appears in the second Book of *Feuds*, Cap. 53. upon which read *Hottoman*, &c. what Articles were wont to be enquir'd of in this Court, see in *Horne's Mirror of Justices*, Lib. 1. Cap. *de Lavenue des Frank-pledges* ; and what their Articles were in former Times, see in *Fleta*, Lib. 2. Cap. 52. and 4 *Inst.* In an antient Charge of the Quest of Wardmote, in every Ward in *London*, it is said, and if there be any Person within the Ward, that is not under Frank-pledge, that is to say, under Love and Law, &c. (*Cowel's Interpreter.*)

(8) *Law-days.*] The Law-day or *Lage-day* was properly any Day of open Court ; and commonly used for the more solemn Courts of a County or Hundred. - - - *Debent facere Seetam ad Hundredum Prædictum ad duos Lage-days per Annum ; unum ad Festum beati Martini, & alium ad La Hockeday*, - - - the second *Tuesday* after *Easter-Week*, (*Cowel's Interp.*) *Leta visus Franci Plegii*, a Leet is otherwise call'd a Law-day.

(1) *Action*

If

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If an Action (1) had been brought against a Knight, not naming him Knight, the Action abated (2), because the Word Knight was a Name of Dignity. If an Esquire had been made a Knight, he lost the Name of Esquire; but if a Knight were made a Duke, Earl or Baron, he still held and retain'd the Name and Title of Knight during his Life, because the greater Dignity drowns not the lesser, but both stand together in one Person. If

(1) *Action.*] *Actio*, is defin'd by *Bracton*, *Lib. 3. Cap. 1.* § 3. in the same Manner as by *Justinian*, *Lib. 4. Instit. titulo de Actionibus*, viz. *Actio nihil aliud est quam jus prosequendi in Judicio quod alicui debetur*, and is divided into *Personalem*, *Realem*, & *Mixtam*. (*Co Inst. 2.*)

A Personal Action is that, which one Man may have against another, by reason of any Contract for Money or Goods, or for any Offence done by him, or some other, for whose Fact he is answerable. (*Bracton*, *Lib. 3. Cap. 3. Numb. 2.*)

A Real Action is defin'd to be, whereby a Defendant claims Title to have a Freehold in any Lands or Tenements, Rents or Commons, in Fee-simple, Fee-tail, or for Life. (*Bracton* *Ib. Num. 3.*) And every Action real is either Possessory, that is of his own Possession and Seisin, or Auncestrel, of the Seisin or Possession of his Ancestor. (*Co. Lib. 6. Fol. 3.*) Writs of Right, Writs of Entry, &c. and their several Appendixes, Grand-Cape, Petit-Cape, Recipe, View, Aid-Prayer, &c. being Real Actions, took place and swell'd the Titles of our Year-Books heretofore, but now are grown much out of Use.

Action mixt, is that which lieth as well against or for the Thing, which we seek, as against the Person that hath it, and is call'd mixt, as having a Respect both to the Thing

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Thing and the Person. (*Bracton. Lib. 3.*) For Example, the Division of an Inheritance between Co-heirs or Co-partners, call'd in the Civil Law, *Actio Familiae Exsciscundia*. 2dly, The Division of any particular Thing being common to more, call'd also *Actio de Communi dividendo*, which *Bracton*, *Cujacius*, &c. allow to be mixt; of which *Britton* discourseth at large in his 71st Chapter. In the Terms of the Law. *verb.* Action mixt, it is said to be a Suit by the Law, to recover the Thing demanded, and Damages for the Wrong done; as in Assize of *Novel Disseisin*, which Writ, if the Disseisor make a Feoffment to another, the Disseisee shall have against the Disseisor, and the Feoffee or other Tenant, and thereby shall recover Seisin of his Lands, and Damages for the mean Profits, and the Wrong done; and so is an Action of Waste and *Quare impedit*.

Action is also divided by the Civilians into *Civilem* & *Pratoriam*, whereof one ariseth out of the Civil Law in general, the other from some *Pratorian* Edict. And a Division not unlike this may be made in the Common Law of *England*, one Part growing from the antient Customs, the other from the Statutes.

Actions are also divided into Civil, Penal, and Mixt.

Action Civil is that, which tends only to the Recovery of that, which by Reason of any Contract, or other like Cause, is due to us; as if a Man by Action seek to recover a Sum of Money lent, &c.

An Action Penal, aims at some Penalty or Punishment in the Party su'd, be it Corporal or Pecuniary: As in the Action *Legis Aquilia* in the Civil Law; and in the Common Law, the next Friends of a Man feloniously slain or wounded, shall pursue the Law against the Offender, and bring him to condign Punishment.

Action Mixt, seeks both the Thing whereof we are depriv'd, and a Penalty for the unjust Detention. As in Action for Tithes upon the Statute of 2 & 3 Ed. 6. Cap. 13. *Item est alia actio mixta, quae dicitur Actio Hirciscunde, & locum habet inter eos qui communem habent Hereditatem, &c. (Co. on Lit.)*

Action is also (according to the Form of the Writ) divided into such, as are conceiv'd to recover either the simple Value of the Thing challeng'd, or the Double, Treble,

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ble, or Quadruple. (*Bracton, Lib. 3. Cap. 3. Num. 6.*) So doth a *Decies tantum* lie against Embracers, and against Jurors that take Money for their Verdict of either or both Parties: And any other Action upon a Statute that punishes any Offence by Restitution, or Fine proportionable to the Transgression.

Action also is prejudicial (otherwise call'd Preparatory) or Principal. Prejudicial, is that which grows from some Doubt in the Principal; as if a Man sue his younger Brother for Land descended from his Father, and it is objected that he is a Bastard. (*Bracton Lib. 3. Cap. 4. Num. 6.*) For this Point of Bastardy must be tried, before the Cause can farther proceed, and therefore term'd *Prejudicialis, quia prius judicanda.*

Action is either Auncestrel or Personal (*Stamf. Pl. Cor. 59.*) Auncestrel seems to be that, which we have by some Right descending from our Ancestor; and that Personal, which has Beginning in and from our selves. There is also Action Auncestrel Droiturel, and Action Auncestrel Possessory, which see in *Coke's 2 Inst.*

Action upon the Case, *Actio super Casum*, is a general Action given for Redress of Wrongs done without Force against any Man, and by Law not especially provided for; for when you have any Occasion for Suit, that neither hath a fit, nor certain Form prescrib'd, then the Clerks of the *Chancery* in ancient Time conceived a fit Form of Action for the Fact in Question, which the Civilians call *Actionem in factum*, and the Common Lawyers, *Actio-nem super Casum*. And whereas in the Civil Law there are two Sorts of these Actions; one term'd *Actio in factum praeceptis verbis*; the other, *Actio in factum pratoria*; the former grounded upon Words pass'd in Contract; the other more generally upon any Fact touching either Contract, or Offence formerly not provided against: This Action upon the Case seemeth more to resemble the *Actio Pratoria in factum*, than the other; because in the Perusal of the *Book of Entries* and *Bro. Abridgment*, I find that an Action upon the Case lieth as well against Offences, as Breach of Contract.

Action upon the Statute, *Actio super Statutum*, is brought upon the Breach of a Statute, whereby an Action is given, that lay not before; as when one commits Per-jury,

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jury, to the Prejudice of another, he, who is endamag'd, shall have a Writ upon the Statute, that is, where the Statute gives the Suit on Action to the Party griev'd, or otherwise to one Party certain: And this Action seems to be like any Action in the Law Imperial, either upon *Edictum Pratoris*, *Plebiscitum*, or *Senatus consultum*; for as the *Prator*, so the Common People in *Comitiis*, and the Senators or Nobility in *Curia* or *Senatu*, had Power to make Laws, whereupon the *Prator*, or other Judges permitted Action: So our High Court of Parliament maketh Statutes against such Offences as are either newly grown, or more and more increas'd, and the Judges are oblig'd to entertain their Pleas, that commence Actions against the Breakers of them.

Action, is Perpetual or Temporal (*perpetua vel temporalis*) and that is call'd perpetual, whose Force cannot be determin'd by Time; of which Sort were all Civil Actions among the *Romans*, viz. such as grew from Laws, Decrees of the Senate, or Constitutions of the Emperors, whereas Actions, granted by the *Prators*, fell within the Year; so we have in *England* Perpetual and Temporal Actions: And indeed all Actions may be call'd perpetual, that are not expressly limited. As divers Statutes give Action, so they be pursu'd within the Time by them prescrib'd. As for Example, the Statute of 1 *Ed. 6. Cap. 1.* gives Action for three Years after the Offence committed and no longer. And the Statute of 7 *H. 8. Cap. 3.* doth the like for four Years; and that of 31 *Eliz. Cap. 5.* for one Year and no more: And the Act for Uniformity 14 *Car. 2. Cap. 4.* limits some Things to two or three Months, and some to more. But as by the Civil Law, no Actions were at last so perpetual, but that by Time, they might be prescrib'd against, so in our Common Law, tho' Actions may be call'd perpetual in Comparison of those, that be expressly limited by Statute, yet there is a Means to prescribe against Real Actions within five Years by a Fine levied, or a Recovery suffer'd.

Action Popular, is given upon the Breach of some Penal Statute, which every Man that will, may sue for himself and the King, by Information or otherwise; and because this Action is not given to one especially, but generally to any of the King's People that will sue, it is called

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led an Action Popular ; but in this Case, when one hath begun to pursue an Action, no other may sue it ; and in this, as it seems, it varies from an Action Popular by the Civil Law.

Action, is further divided into *Actionem bonæ fidei* & *stricti juris*, which Division hath good Use in the Common Law, tho' the Terms are not to be found in any of their Writers : therefore we refer them to the Civilians.

Action of Writ, is a Phrase of Speech us'd, when one pleads some Matter by which he shews the Plaintiff had no Cause to have the Writ be brought; yet it may be, that he may have another Writ or Action for the same Matter; such a Plea is call'd a Plea to the Action of the Writ: Whereas, if by the Plea, it should appear, that the Plaintiff hath no Cause to have an Action for the Thing demanded, then it shall be call'd a Plea to the Action. (*Cowel's Interp.*)

(2) *Action abated.*] These two Law Words, viz. to abate (the Verb) and Abatement (the Noun Substantive) will best shew the true Sense and Meaning of the Phrase, the Action abated.

To abate, then (the Verb) may be derived from the French Word, *Abatre*, *Destruere prostertere*, to break down or destroy: In the Vulgar Sense, it signifies to diminish or take away, as to abate the Courage of the Man: It is in the Writers of the Common Law us'd actively and passively, as to abate a Castle or Fortrefs: (*Old Nat. Brev. fol. 45.*) which in *Westm. 1. Cap. 17.* is plainly interpreted to beat it down; and to abate a Writ is by Exception to defeat or overthrow it. (*Britton Cap. 18.*) And in this Active-Voice, it has two Significations, one General, another Special; General, as in the former Examples; and again, in *Kitchin, Fol. 173. Abater Maison*, is to ruin or cast down an House. Special, (as in the *Old Nat. Brev. Fol. 115.*) A Stranger abateth, i. e. entreth upon an House or Land, void by the Death of him that last possessed it; before the Heir take his Possession, and so keeps him out; wherefore, as he that putteth him out of Possession, is said to disseise; so he that steppeth in between the former Possessor and his Heir, is said to abate. And in the Statute *De conjunctim Feoffatis*, 34 Ed. 1. Stat. 2.

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The Writ of the Demandant shall be abated, *i. e.* shall be disabled, frustrated, or Overthrown. So in *Stanford's Pleas of the Crown*, Fol. 148. the Appeal abateth by Coufinage, *i. e.* The Accusation is defeated by Deceit. *Anno* 11 *H. 6. Cap. 2.* The Justices shall Cause to be abated the said Writ, and hence cometh the following Word of the Art.

Abatamentum, Abatement, a *French* Word, sometimes signifying the Act of the Abator, as in the Abatement of the Heir into the Land before he hath agreed with the Lord, (*Old Nat. Brev. 91.*) Sometimes the Affection or passing of the Thing abated, as Abatement of the Writ. (*Kitchin, Fol. 214.*) And in this Signification, it is as much as *Exceptio dilatoria* with the Civilians, (*Brit. Cap. 51.*) or rather an Effect of it; for the Exception alledgd and made good, works the Abatement. And this Exception may be taken either to the Insufficiency of the Matter, or to the Incertainty of the Allegation, by the misnaming of the Plaintiff, Defendant or Place; to the Variance between the Writ and the Specialty, or Record; to the Incertainty of the Writ, Count or Declaration; or to the Death of the Plaintiff or Defendant before Judgment had, and for divers other Causes. Upon which Defaults the Defendant may pray, that the Writ or Plaint may abate, *i. e.* the Plaintiff's Suit against him may cease for that Time; new Terms of the Law, Verb Abatement of a Writ, &c. to prevent Abatement of Writs of Error, see the *Stat. 16 Car. 2. Cap. 2.* Abatement is call'd in *Latin*, *Intrusio*; but it may rather be call'd *Interpositio*, or *Intratio per Interpositionem*, to distinguish it from Intrusion after the Death of the Tenant for Life. (*Cowel's Interp.*)

(1) *Stat.*

It was also ordained and enacted in the Statute (1) made at *Carlisle*, 15 *Ed. II.* for acknowledgment of Fines (2) to be levied of Lands between Party and Party (a Matter of great

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Importance (3) that if the Parties appeared not in the Court, then one of the Judges (4) with a Knight (5) of the Shire, should go to the Parties, and take their Acknowledgments, and certify the same accordingly. And by the 24th of *Henry* the 8th (6) it is generally prohibited, that no Man under the Degree of a Knight should wear a Collar of SS's.

Baronets

(1) *Statute made at Carlisle.*] entitul'd, The Conusor of a Fine shall come personally before the Justices; where a Commission shall be awarded to take a Fine, who may admit Attornies.

The Words of the Statute are, *viz.* ' The King unto the Justices of the Bench, Greeting; whereas of late we have ordain'd, that all such Fines as are to be levied in our Court, be lawfully levied, which we will in no wise to be infrin'd, or to be annull'd of their whole Power. 2. We have sent unto you our Mind in Writing, firmly to be observed, that is to wit, that as well the Parties Demandant or Plaintiffs, as the Tenants or Defendants that will yield or acknowledge their Right of Lands or Tenements, unto other in Pleas of *Warrantia Charta*, Covenant, and other, whereupon Fines are to be levied afore you, before such Fine do pass, the Parties shall appear personally, so that their Age, Idiocy, or any other Default (if any be) may be adjudg'd and discern'd by you. 3. Provided notwithstanding, that if any Person be by Age or Impotence decrepit, or by Casualty so oppress'd and with-holden, that by no Means he is able to come before you in our Court, then in such Case we will, that two or one of you by Assent of the Residue of the Bench, shall go unto the Party so diseased, and shall receive his Cognizance upon that Plea, and Form of Plea that he hath in our Court, whereupon

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on the same Fine ought to be levied. 4. And if there go but one, (this is the particular Clause for our Purpose) he shall take with him an Abbot, a Prior, or a Knight; a Man of good Fame and Credit, and shall certify you thereof by the Record; so that all Things incident to the same Fine being examin'd by him or them, the same Fines according to our former Ordinance, may be lawfully levied, &c.

(2) *Fines*.] Fine, *Finis* hath divers Applications in the Common Law, sometimes being used for a formal or ceremonious Conveyance of Lands or Tenements; or as *West* saith, *Tit. Fines, Sect. 25.* of any Thing inheritable, being *in esse tempore Finis*, to the End to cut off all Controversies. The same *West* in his 2 *Par. Symbol. Sect. 1.* thus defines it, to be a Covenant made before Justices, and entred of Record: But *Glanvil* more nobly thus, (*Lib. 8. Cap. 1.*) *Finis est Amicabilis compositio, & Finalis Concordia ex Consensu & Licentia Domini Regis vel Justiciariorum*: And *Lib. 9. Cap. 3.* *Talis Concordia Finalis dicitur, eo quod finem imponit negotio, adeo ut neutra Pars litigantium ab eo de cetero poterit recedere.* And *Bracton Lib. 5. Cap. 28. Num. 7.* thus; *Finis ideo dicitur Finalis Concordia quia imponit finem litibus, & est exceptio peremptoria.* The Author of the new Terms of the Law defineth it, to be a final Agreement, had between Persons concerning any Lands or Rents; or other Thing whereof any Suit or Writ is between them, hanging in any Court. See the New Book of Entries, *Verbo Fines*, and 27 *Ed. 1. Cap. 1. Stat. de Finibus levatis*, in the first Clause whereof Fines are thus defin'd; viz. Forasmuch as Fines levied in our Court, ought and do make an End of all Matters, and therefore are call'd Fines principally, where after waging of Battail or the Great Assize, in their Cases ever they hold the last and final Place, &c.

This Fine is of so high a Nature, that *Bracton* saith of it thus; *Item immediate pertinet ad Regem Querela Finis facti in Curia Domini Regis & non observati, & est ratio, quia nemo potest Finem interpretari nisi ipse Rex, in Cujus Curia Fines fiunt.* The Civilians would call this solemn Contract, *Transactionem judicalem de re immobili*, because it hath all the Properties of a Transaction,

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if it be consider'd in the Original Use. (*Wesemb. de Transact.*) For it appeareth by the Writers of the Common Law before recited, that it is nothing, but a Composition or Concord acknowledged and recorded before a competent Judge, touching some Hereditament or Thing immoveable, that before was in Controversy between the Parties to the same Concord; and that for the better Credit of the Transaction, being by Imputation, made in the Presence of the King, because it is levied in his Court; and therefore doth it bind Women Coverts being Parties, and others whom ordinarily the Law disables to transact, only for this Reason, that all Presumption of Deceit or evil Meaning is excluded, where the King is privy to the Act: (originally the Use of this final Concord was instituted and allow'd, in regard that by the Law and antient Proceedings, no Plaintiff, giving real Security *de Clamore suo prosequendo*, could agree without Licence of the Court, so as Fines have been antiently levied in Personal Actions). But Subtilty of Wit and Reason, hath in Time wrought other Uses of this Concord, which in the Beginning was but one; *viz.* to secure the Title that any Man hath in his Possession against all Men: To cut off Entails, and with more Certainty to pass the Interest and Title of any Land or Tenement, tho' not controverted, to whom we think good, either for Years or in Fee; insomuch that the passing of a Fine in some Cases, now is but *Mera fictio juris*, alluding to the Use for which it was invented, and supposing a Doubt or Controversy, where in Truth none is; and so not only to work a present Prescription against the Parties to the Concord or Fine, and their Heirs, but within five Years against all others, not expressly excepted (if it be levied upon good Consideration, and without Covin,) as Women Covert, Persons under twenty-one Years of Age, Prisoners, or such as be out of the Realm at the Time when it was acknowledged. Touching this Matter, see the Statutes of 1 R. 3. Cap. 7. 4 H. 7. Cap. 24. 22 H. 8. Cap. 26. and 31 Eliz. Cap. 2.

This Fine hath in it five essential Parts: 1. The Original Writ taken out against the Cognisor. 2. The King's Licence, giving the Parties Liberty to accord, for the which he hath a Fine call'd the King's Silver, being accounted a Part of the Revenue of the Crown. 3. The Con-

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Concord it self, which thus beginneth, *Et est Concordia talis*, &c. 4. The Foot of the Fine, which is an Abstract of the original Concord, and beginneth in this Manner, *Sc. inter R. querentem & S. & R. uxorem ejus deformatantes*, &c. 5. The Foot of the Fine, which beginneth thus, *Hec est Finalis Concordia facta in Curia Domini Regis apud Westm. a die Pasche in quindecim dies, Anno*, &c. so as the Foot of the Fine, includeth all, containing the Day, Year, and Place, and before what Justice made; this Fine is either single or double.

A single Fine is that, by which nothing is granted or rendred back again by the Conusees to the Conufors, or any of them.

A double Fine containeth a Grant or Render back again, either of some Rent, Common, or other Thing out of the Land, or of the Land it self to all, or some of the Cognifors for some Estate, limiting thereby many Times Remainders to Strangers, which be not nam'd in the Writ of Covenant. *West. ubi supra. Sect. 21.*

Again, a Fine is of the Effect divided into a Fine Executed, and a Fine Executory.

A Fine Executed, is such a Fine, as of its own Force giveth a present Possession (at the least in Law) unto the Cognifor, so that he needeth no Writ of *Habere facias seisinam* for the Execution of the same, but may enter, of which sort is a Fine *Sur Cognizance de droit come ceo que il a de Son done*, that is upon Acknowledgment, that the Thing mention'd in the Concord, be *jus ipsius cognizati*, *ut illa que idem habet de dono Cognitoris*. *West. Sect. 51.* And the Reason of this seemeth to be, because this Fine passeth by Way of Release that Thing, which the Cognifor hath already (at least by Supposition) by Vertue of a former Gift of the Cognifor. *Co. Rep. Lib. 2. Fol. 89.* Case of Fines, which is in very Deed the surest Fine of all.

Fines Executory be such as of their own Force do not execute the Possession in the Cognifor, as *Fines sur Conuifance de droit tantum*, *Fines sur dones*, Grant, Release, Confirmation, or Render; for if such Fines be not levied, or such Render made unto them that be in Possession at the Time of the Fines levied, the Conusees must needs sue Writs of *Habere facias seisinam*, according to their several Cases, for the obtaining of

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their Possessions, except, at the levying such Executory Fines, the Parties unto whom the Estate is by them limited, be in Possession of the Lands passed thereby: For in this Case such Fines do enure by Way of Extinguishment of Right, not altering the Estate of Possession of the Cognisee, but perchance bettering it. *West. ubi supra Sect. 20.*

Touching the Form of these Fines, we must consider upon what Writ or Action the Concord is to be made, and that is most commonly upon a Writ of Covenant; and then, first there must pass a Pair of Indentures between the Conusor and Conusee, to pass a Fine unto him of such or such Things by a Day set down: And these Indentures, as they are first in this Proceeding, so are they said to lead the Fine; upon this Covenant, the Writ of Covenant is brought by the Conusee against the Conusor, who hereupon yeildeth to pass the Fine before a Judge; and so the Acknowledgment being recorded, the Cognisor and his Heirs are presently concluded, and all Strangers not excepted, after five Years once passed. If the Writ, whereupon the Fine is grounded be not a Writ of Covenant, but of *Warrantia Chartæ*, or Writ of Right, or a Writ of Mesne, or a Writ of Customs and Services (for all these Fines may also be founded. *West ubi supra Sect. 23.*) then this Form is observ'd, the Writ is serv'd upon the Party that is to acknowledge the Fine, and then he appearing doth accordingly. (See *Dyer fol. 176. Num. 46.*)

(Fines are now only levied in the Court of *Common Pleas* at *Westminster*, in Regard of the Solemnity thereof ordain'd by the *Stat. 18 Ed. 1.* that before were levied in other Places).

This Word *Fine*, sometimes also signifieth a Sum of Money paid for an Income to Lands or Tenements let by Lease, antiently call'd *Gerfuma*; sometimes an Amends, Pecuniary Punishment or Recompence upon an Offence committed against the King and his Laws, or against the Lord of a Manor; in which Case a Man is said *Finem facere de Transgressionem cum Rege, &c.* but in all these Diversities of Uses, it hath but one Signification, and that is a final Conclusion, or End of Difference between Parties. And in this last Sense, wherein it is used for the Ending and Remission of an Offence, *Eractio* hath it,
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Lib. 2. Cap. 15. Num. 8. speaking of a Common Fine, that the County payeth to the King for false Judgments, or other Trespases, to be assessed by the Justices in Eyre before their Departure, by the Oath of Knights, and other good Men, upon such, as ought to pay it, with whom agreeth the Statute of 3 *Ed. 1. Cap. 18.* There is also a Common Fine in Leets (*Fleta Lib. 1. Cap. 48.*) (*Cowel's Interp.*)

(3) *Great Importance.*] As is evident from the Statute of 18 *Ed. 1.* entituled, *The Statute of Fines*, made *Anno 18 Ed. 1. Stat. 4. Ann. Dom. 1290.*

The Manner of levying of Fines, what Things be requisite to make them good, and who are bound by them.

The Statute having first prescrib'd the Order to be observ'd in the levying of a Fine, the Form of a Fine, with the Things necessary to make it good, declares the Cause of the Solemnity thereof in the Words following, *viz.* (8) And the Cause wherefore such Solemnity ought to be done in a Fine, is, because a Fine is so high a Bar, of so great Force, and of so strong Nature in it self, that it concludeth not only such as be Parties and Privies thereto and their Heirs, but all other People of the World being of full Age, out of Prison, of good Memory, and within the four Seas, the Day of the Fine levied, &c.

(4) *Judges.*] Judge and Judges, *Judex* & *Judices*; all their Commissions are bounded with this expresse Limitation, *Facturi quod ad Justitiam pertinet secundum Legem & Consuetudinem Anglie.* The Judge at his Creation takes an Oath, that he shall indifferently minister Justice to all them, that shall have any Suit or Plea before him, and this he shall not forbear to do, tho' the King by his Letters, or by expresse Word of Mouth should command the contrary, &c. It is a Maxim in the Law, *aliquis non debet esse Judex in propria Causa.* King Henry the 4th, when his eldest Son, the Prince, was by the Lord Chief Justice, for some great Misdemeanours, committed to Prison, thank'd God, that he had a Son of that Obedience, and a Judge so impartial, and of such undaunted Courage: The Story is well known, and may be read at large both in *Stow* and *Daniel in vita Hen. 5. Fortescue* in his

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Book *De Laudibus Legum Anglie*, 53. speaketh of a Judge, complaining of a Judgment given against a Gentlewoman of *Salisbury*, who being accused by her own Man-Servant, without any other Proof, for murdering her Husband, was thereupon Condemn'd and Burnt: The Man-Servant, who accus'd her, being within a Year after convicted for the same Offence, confess'd, that his Mistress was altogether innocent of that cruel Fact. But this Judge, (as the same Author adds) *sepius mihi fassus est, quod nunquam in vita sua animum ejus de hoc Facto purgaret.* In 1mo Hen. 4. the King demanded of *Gascoigne*, a Justice, If he saw one in his Presence kill J. S. and another (which was not culpable) should be indicted of this before him, what he would do in this Case? To which he answer'd, that he ought to respite Judgment against him, and to relate the Matter fully to the King, to procure him a Pardon; for there he cannot acquit him, and give Judgment according to his private Knowledge: But where they have a judicial Knowledge, there they may and ought to give Judgment according to that. See the like Case determin'd by King *James* in his Disputations at *Oxford*. (*Cowel's Interp.*)

(5) *Knights of the Shire.*] *Milites Comitatus*, otherwise call'd Knights of the Parliament, are two Knights or other Gentlemen of Worth, that are chosen in *Pleno Comitatu* by the Freeholders of every County that can dispend 40 s. *per Annum*, and be resident in the Shire. *Ann. 1 H. 5. Cap. 1.* and *10 H. 6. Cap. 2.* upon the King's Writ, to be sent to the Parliament, and there to consult and advise concerning the Publick Affairs of the Realm. These, when every Man that had a Knight's Fee were constrain'd to be Knights, were of Necessity to be *Milites gladio cincti*, and so the Writ still runneth. (*Crompt. Jur. Fol. 1.*) But now Custom allows Esquires to be chosen to this Office. *23 H. 6. Cap. 6.* so that they be Resident in the County. For the Choice of these Knights, see the Statutes of *7 H. 4. Cap. 15.* *11 H. 4. Cap. 1.* *6 H. 6. Cap. 7.* *23 H. 6. Cap. 15.* with others, and the new Book of Entries, *Verbo Parliament.* Their Expences are to be born by the County during the Parliament.

35 H. 8.

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35 H. 8. Cap. 11. but that is of late disused in some Measure. (*Cowel's Interp.*)

Shire, *Comitatus*, derived from the *Saxon*, *Scyran*, i. e. *partiri*, is well known to be a Portion of Land, call'd a County: Who first divided this Land into Shires, see *Cambden's Britannia*, of which there are in *England* forty, and in *Wales* twelve, in all fifty-two. In *Privilegiarum Chartis* (says *Spelman*) *ubi conceditur quietum esse a Skiris, intelligendum est de immunitate qua quis eximitur a secta vel Clientela Curiis Vice Comitum (quas etiam Skiras vocant) praestanda vel perficienda*; The Assizes of the Shire were by the *Saxons* of old call'd *Sciregemot*. (*Cowel's Interp.*)

Shires (a Word taken from the *Saxons*) or Counties (a Word taken from the *French*) are certain Circuits and Parts of the Kingdom, into which the whole Realm was divided for the more convenient Government thereof, and is govern'd by a yearly Officer, whom we call Sheriff, which is compounded of two *Saxon* Words, *Shire* and *Reeve*; *Reeve* signifying *Præpositus* or Governor. As for the Time when and by whom this Realm was divided into Counties or Shires, Authors seem to differ. *Coke* on *Littleton*, 1 *Inst. Fo.* 168. holds, that they were divided by the *Britains*; but it is generally held, (as *Ingulphus*, &c.) that they were divided by King *Egbert* or *Ælfred*: But tho' *Egbert* united the Heptarchy, yet he was not the first that divided the Kingdom into Counties, nor *Ælfred* neither, as some imagine. For as *Mr. Selden* observes, about the Year 700, (100 Years before *Egbert*) one of *Ina's* Laws was; if any *Alderman*, i. e. Sheriff, were guilty of an Escape, *perdat Comitatum suum*; therefore *Ingulphus* meant, that King *Ælfred* did divide it into Hundreds, or else made a more punctual Division than was before. Now it appears that the Earls of the Counties had the Custody and Guard of the Counties long before the Conquest; and when the Earls left their Custodies, then were the Custodies of Counties committed to Viscounts, who are thereupon call'd *Vice-Comites*, *quia Vices Comitum supplent*; and we seem to derive all this from the *Romans*; for what we call *Comitatus*, was by them call'd *Consulatus*, and whom the *Saxons* afterwards call'd *Shireeve* or Earl, the *Romans* call'd *Consul*; and the Sheriff was Deputy

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puty of the Consul or Earl, and the Romans call'd him Vice-Consul. (Co. 1. Inst. 168.) Dugdale Antiq. War. Pref. But more of this by and by, when I speak of the Office of Sheriff, and in Coke's own Words too. It is observed in Mr. Dalton's Offic' Vic' Fol. 2. that of these Counties there be four of special Mark, and are term'd County-Palatines, of Lancaster, of Chester, of Durham, and of Ely. And the Chief Governors of these County-Palatines, by special Charter from the King, did also Things heretofore touching Justice absolutely, and in their own Name; but that by the Statute 27 H. 8. Cap. 24. this Power of theirs is much abridg'd: That there be also Counties-Corporate, which be certain Cities, or ancient Boroughs, upon which King's formerly have bestow'd such extraordinary Liberties, as the Cities of London, York, and Chester, Canterbury, Kingston upon Hull, Litchfield and Haverford. Vid. Co. Lit. 109. Dalt. 2. (Compleat Sheriff, 2 Edit. in the Savoy, London, in 1710.)

The Shire or County and the Sheriff being Cor-relatives, something shall be said of an Officer of such Note out of Coke, and the Authors just before cited; and first out of Coke.

Shireve, Sheriff (saith he) is a Word compounded of two Saxon Words, viz. Shire and Reeve; Shire, *Satrapia* or *Comitatus* cometh of the Saxon Verb *Scyran*, i. e. *Partiri*, for that the whole Realm is parted and divided into Shires, Shares or Portions; and Reeve is *Præfectus* or *Præpositus*; so as Shireve is the Reve of the Shire, *Præfectus Satrapia*, *Provincia*, or *Comitatus*. And he is called *Præfectus*, because he is the Chief Officer to the King within the Shire. For the Words of his Patent be, *Commissimus vobis Custodiam Comitatus nostri de, &c.* And he hath a threefold Custody, *Triplicem Custodiam*. viz. 1. *Vita justitiæ*, for no Suit begins, and no Process is serv'd but by the Sheriff; also he is to return indifferent Juries for the Trial of Men's Lives, Liberties, Lands, Goods, &c. 2. *Vita Legis*, he is after long Suits, and chargeable to make Execution, which is the Life and Fruit of the Law. 3. *Vita Reipublicæ*, he is *Principalis Conservator Pacis* within the County, which is the Life of the Commonwealth, *Vita Reipublicæ Pax*.

He

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He is call'd Viscount, in *Latin Vice-Comes*, i. e. *Vice Comitis*, that is, instead of the Earl of that County, who in ancient Time had the Regiment of the County under the King. For it is said in the *Mirror* (*Cap. 1. Sect. 3.*) that it appeareth by the Ordinance of antient Kings before the Conquest, that the Earls of the Counties, had the Custody or Guard of the Counties; and when the Earls left their Custodies or Guard, then was the Custody of Counties committed to Viscounts, who therefore are call'd *Vice-comites*, *quod Vices comitum suppleant*.

Marculpius saith, this Office is *Judiciaria Dignitas*. *Lampridius*, that it is *Officium Dignitatis*; *Fortescue* saith, *Quod Vice-comes est Nobilis Officiarius*; and see there and observe well his honourable and solemn Election, and Creation at this Day. But to confirm all that hath been said concerning this Point, and to conclude the same; among the Laws of *Edward the Confessor*, I find it thus recorded; *Verum quod modo vocatur Comitatus, olim apud Britones temporibus Romanorum in Regno isto Britannia vocabatur Consulatus, &c qui modo vocantur Vice-Comites, tunc temporis Vice-Consules vocabantur; ille vero dicebatur Vice-Consul, qui Consule absente ipsius vices supplebat in jure &c in Foro*. Herein many Things are worthy Observation; 1. For the Antiquity of Counties. 2. That which is call'd *Comitatum*, the *Romans* more latinly called *Consulatum*. 3. Whom the *Saxons* afterwards call'd (as hath been said) Shireve or Earl, the *Romans* call'd *Consul*. 4. That the Sheriff was Deputy of the Consul or Earl, and therefore the *Romans* call'd him *Vice-Consul*, as we at this Day call him *Vice-Comes*. 5. That the Sheriff in the *Romans* Time, and before, was a Minister to the King's Courts of Law and Justice, and had then a Court of his own, which was the County-Court, then call'd *Curia Consulatus*, as appeareth by those Words, *Ipsius vices supplebat in jure &c Foro*. 6. That this Realm was divided into Shires and Counties, and these Shires into Cities, Boroughs, and Towns by the *Britains*; so that King *Alfred's* Division of Shires and Counties, was but a Renovation or more exact Description of the same.

Lastly, The Consequence that will follow upon these Things, being so antient (as in the Time of and before the *Romans*) the Studious Reader will easily collect. And
afterwards

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afterwards among the Laws of the same King, it appeareth, that those, whom the Saxons sometimes called (and now we call) *Aldermen* or *Eorles*, the Romans call'd *Senatores*; Et similiter olim apud Britones temporibus Romanorum in Regno isto Britannia vocabantur *Senatores*, qui postea temporibus Saxonum vocabantur *Aldermanni*, non propter *Etatem*, sed propter *Sapientiam* & *Dignitatem*, cum quidam *Adolescentes* essent, *Juris periti* tamen & super hoc *experti*. (*Inst. i. Fo. 168.*)

Shireve; or as vulgarly *Sheriff*, *Vice-Comes*, (according to *Cowel*) is the Chief Officer of the King in his County. *Cambden* in his *Britannia* describes his Office in this Manner.

Singulis vero, Nobilis aliquis ex Incolis praeicitur, quem Vice-Comitem, quasi vicarium Comitis, & nostra Lingua Shyreve, i. e. Comitatus Praepositum vocamus; qui etiam Comitatus vel Provinciae Quaestor recte dici potest. Ejus enim est publicas Provinciae suae pecunias conquirere, multas irrogatas, vel pignoribus ablati colligere & Arario inferre, iudicibus praesto adesse, & eorum mandata exequi, 12 viros cogere, qui in Causis de Facto cognoscunt & ad Iudices referunt, (Iudices enim apud nos Juris solum, non Facti sunt Iudices) condemnatos ad supplicium ducere, & in Minoribus litibus cognoscere, in Majoribus autem jus dicunt Iusticiarii, quos itinerantes ad Assisas vocant, qui quotannis hos Comitatus bis adeunt, ut de Causis cognoscant, & carceratis Sententiam ferant. Henricus secundus hos itinerantes instituit, vel potius restituit. Ille (ut inquit Mat. Paris) consilio Filii sui, & Episcoporum constituit Iusticiarios, per sex partes Regni, in qualibet parte Tres, qui jurarent, quod cuilibet jus suum Conservarent illatum.

Of the Antiquity and Authority of this Officer; read *Co. Rep. Lib. 4. Milton's Case*; and *Spelman's Glossary, Verbo, Vicecomes*. The Sheriff was heretofore chosen in the County-Court by the Suffrages of the People, as Knights of the Shire for Parliament yet are, but now he is nominated by the King. See *Fortescue, Cap. 24. Fol. 53. Et dicitur Vice-Comes, quod vicem Comitis supplet, &c. (Niger Lib. Scaccar.)* The Form of his Oath see in *Reg. Orig. Fol. 231.* of this read also *Skene de Verb. signif. voce Shyreve*, where he at large describes the Sheriff in Scotland, in a Discourse worth the reading. (*Interp.*)

Vice-

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Vice-comes (as the *Compleat Sheriff* saith) *Est un Grand Conservator del Peace*. And this from Rolls 1 R. 237. so at this Day the Sheriff hath all the Authority for the Administration and Execution of Justice, which the County or Earl had, the King by his Letters Patent now committing to the Sheriff *Custodiam Comitatus*, (Co. 9. Fol.)

In *Bulstrode, Chune* and *Piott's Case*, *Coke Arguendo* seems to be of Opinion, that there were no Earls before the Conquest; but the Meaning is, there was no hereditary Earl; but he that had the Office, had it at the Pleasure of the King; for in the Preface to his *Reports*, the third Part, he is of Opinion, there were Sheriffs Time out of Mind before the Conquest; and if so, then Earls were; he gives an undeniable Argument, for that the Trials *per Juries*, which were always return'd by the Sheriffs, were before the Conquest, as even appears by *Domesday-Book*. Now we know, that Viscounts were not created till the Time of Henry the 6th, *sed Distinguendum*, &c. Viscount signifies a Title of Honour, or an Office of Trust; as it is a Title of Honour, it is of late standing; but an Office of Trust, *viz.* for the Government of the County, it was Time out of Mind.

And this Difference is grounded upon *Cambden* in his *Britannia*; Viscount (saith he) *Hac vetus Officii, sed nova Dignitatis Appellatio*. 9 Rep. in *Fine de Lewer's Case*, *Cambd. Pag. 160.*

The Sheriff at Common Law was eligible by the County, as the Coroner is at this Day; and then, by the Death of the King, his Office was not determin'd, any more than the Coroners are now. 2 Brownl. 282. *Chamberlain* and *Goldsmith*.

But by Stat. 14 Ed. 3. cap. 7. and 21 H. 8. cap. 20. the Judges are to nominate three Persons of every County to be presented to the King, that he may prick one of them, which by the Statute is to be done in 3 Novemb. being *Crasfin. Animarum*; and yet An. 16. Car. 1. because the 3d of November, was the first Day of the Parliament, and the Lords were to attend upon the King, it was resolv'd by the Judges, that it might be well put off till another Day; the Lord Keeper deferr'd it till the 6th of November. (Cro. Car. 595.)

But

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But the Statute of the 9th of *Edward* the 2d, restrains not the King's Power at Common Law, but the King may constitute a Sheriff without Election, or grant it in Fee; and he may still make Sheriffs without the Judges. *Dyer* 225. for all Acts of Grace flow from him.

These Statutes therefore and the like, were made to put Things in ordinary Form; and to ease the Sovereign of Labour, and not to deprive him of Power; the Election being meerly in the King, and the Office ministerial only.

Next follow some General Observations of the great Honour, Power, and Privilege of Sheriffs, and wherein, and by what Acts he is restrain'd. One calls it *Judiciaria Dignitas*; *Fortescue* saith, that *Vice-Comes is Nobilis Officiarius*. In *Sevill's Rep.* p. 43. he is call'd a Royal Officer; for (saith the Book) Charters of Liberties granted to the Barons of *Cinque-Ports*, and other Inhabitants, shall discharge them of Inferior Offices, as Constables, &c. but not of Offices Royal, as Sheriff, &c. 1 *Roll. Rep.* 274. *Phelp's Case*.

The Sheriff takes Place of every Nobleman in the County, during the Time that he is Sheriff. And tho' the Sheriff be not a Justice of Peace, yet he is a Conservator of the Peace, and by this, he may well imprison a Man upon a good Cause. 2 *Roll. Rep.* 237.

Fitzherbert N. B. 81. b. At Common Law the Sheriff may commit any one for the Breach of the Peace.

Such Persons as he shall apprehend upon Suspicion of Treason or Felony, upon fresh Suit or Hue and Cry, he may commit to the Gaol. He may commit all Affrayers or Breakers of the Peace in his Presence.

Upon any foreign Invasion he may raise the County; so upon Rebellions and Insurrections; and may command any Number, he thinks fit to aid him.

But of his own Authority, he shall not arrest any Man upon Suspicion of Felony, except there be a Felony committed in Fact, and he himself have Suspicion of him.

By *Stat. 17. R. 2. cap. 8.* The Sheriff may raise the *Posse Comitatus* to suppress Rioters, and commit them to Prison, 13 *H. 4. Cap. 7.* and if the Rioters resist, the Sheriff and his Assistants may justify the killing them. *Vide* the Statute

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tute of 13 *H. 4. cap. 7.* and the Statute of *Northampton, 2 Ed. 3. cap. 3.* for this Purpose, and 13 *Ed. 1. cap. 39.*

Wheresoever the Sheriff, or any other of the King's Officers may take the *Posse Comitatus*, or have Authority either to execute the King's Process or apprehend Felons, Rioters, &c, if they shall find Resistance, they may arrest and imprison all such Offenders.

He hath *Custodiam Comitatus*, and therefore for Cause he may commit: He is *Conservator Pacis. Stat. 1 Mar. cap. 8.* takes not away Power from the Sheriff; if he was in Commission of Peace before, he was to forbear the Execution of his Commission for the Peace, so long as he is Sheriff; but he is not to forbear the Execution of that, which is committed to him for the County.

The Sheriff, if he see a Person carry Weapons in the Highway in *Terrorem Populi*, he may commit him, tho' he does not break the Peace in his Presence.

Anciently the Bishop with the Sheriff, went in Circuit twice every Year thro' every Hundred within the County, 2 *Inst. 70.*

The King cannot restrain any Part of the Sheriff's Power; neither can the King chuse a Sheriff contrary to the Statute of *Lincoln*; The Office of Sheriff is entire and cannot be apportioned: Tho' the King constitutes a Sheriff *durante beneplacito*, and may determine it at Will; yet he may not determine it in Part, nor abridge him of any Thing incident to his Office. 2 *Inst. 501. Rep. 32. Milton's Case.*

The Sheriff is an Officer of that Eminence, Confidence, and Charge, that he ought to have all Right pertaining to his Office, and ought to be favour'd in Law before any private Person. I shall give you some Instances. 4 *Rep. 33. 6. Milton's Case.*

Inasmuch as Escapes are so Penal to Officers, the Judges have always made as benign Construction as the Law will permit in Favour of them, and to the Intent that every one may bear his own Burthen, they will never judge an Escape by strict Construction. As if one in Execution escape and fly into another County, and the Sheriff retake him on fresh Suit; It's no Escape, if it be before Action brought; so if the Sheriff by *Habeas Corpus* be commanded to bring the Body at the Day, he shall not
be

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be compelled to take the most direct Way, but the safest.

The Sheriff is not punish'd for executing the Process of the Court, tho' it were erroneous.

To kill the Sheriff, Under-Sheriff, Serjeant, &c. doing their Duty, is Murder, tho' there were not any former Malice, &c.

Affaulting the Sheriff may be severely Fin'd.

Refusing to assist him or his Bailiffs lawfully arresting a Man (in Case of Opposition) may be Fin'd. The Reason whereof is, *viz.*

Every Man is bound by the Common Law to assist not only the Sheriff in his Office for the Execution of the King's Writs according to Law; but also his Bailiff, who hath the Sheriff's Warrant in that Behalf, hath the same Authority that his Master hath; for the Sheriff cannot do all himself; and if they do it not, being requir'd, they shall be fin'd and imprison'd; but in the Case of a Replevin out of a Castle, House, &c. before the Sheriff useth any Force, he ought to demand (according to Law) the Goods to be deliver'd, so as Replevy may be made thereof; for *sequi debet Potentia Mandatum Legis, non precedere.* 2 Inst. 193.

Now besides the Warrant of the Common Law, the Sheriff has his Letters Patent of Assistance, whereby the King commandeth, that all Archbishops, Bishops, Dukes, Earls, Barons, Knights, Freemen, and all other of that County, be to the Sheriff thereof *in Omnibus quæ ad Officium illud pertinent, intendentes, Auxiliantes, & Respondentes.*

As to the Sheriff's Power in breaking up Houses; I shall only observe, that on Process for the Good Behaviour, the Sheriff may break an House to take the Party, as if the Sheriff have a *Cap'* against one, to find Sureties of the Good Behaviour. *Vide Moor 66.*

The Sheriff, or his Ministers in the Execution of Justice, may carry a Dag or Hand-Gun; and it's no Offence against the Statute. 5 Rep. 71. St. John's Case.

In some Cases he is excused from doing Wrong; as he shall not be a Disseisor for executing the King's Writ, tho' he does wrong; for Officers in such Cases are excused by their Warrant, &c.

By

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By the Statute of 21 *Jac. Cap. 13.* The Life of the Party absent, during whose Life the Defendant had Lease, is to be inquir'd by the Sheriff. 1 *Keb.* 176.

Per Stat. 23 Eliz. A Recusant Convict shall after Proclamation at the Assizes or Goal-Delivery render his Body to the Sheriff before the next Assizes, 2 *Keb.* 108. *Le Roy and Webb.*

But notwithstanding the Dignity and Favour the Law casts on Sheriffs, yet in many Cases, they are restrain'd and have limited Qualifications, which would further contribute to the explicating the Nature of the Sheriff's Office.

The Sheriff of a County is not to be chosen a Parliament Man.

Ann. 12 Jac. 1. Sir *George Selby* was made Sheriff of *Durham*, and elected Knight for *Northumberland*; it was resolv'd in Parliament, that the Election was void.

Mr. Walter Long's Case was warmly argued; he was inform'd against first, that he being made Sheriff of the County of *W.* and having taken the Oath to be dwelling in his County all the Year, unless he had Licence of the King, had committed Perjury, inasmuch as he was absent out of the County three Months together. He said, he was elected Burgefs for *Bath*, and by Vertue of a Writ of Summons under the Great Seal, which he conceived amounted to a Licence. The Statute is 4 *H. 4. Cap. 5.* every Sheriff shall dwell in his proper Person in his Bailiffwick for the Time that he shall be Officer: The Words are *Demurrant*, not *Abiding*. The King by Will may elect one of the House to be Sheriff, for this is a Dispensation; but it appear'd *Mr. Long* sought to be elected Parliament Man.

By the Statute of 23 *H. 6.* no Man shall serve the King as Sheriff of any County above one Year, and that notwithstanding any Clause of *Non obstante* to the contrary; that is, notwithstanding the King should expressly dispense with that Statute. And yet 'tis agreed, that against the express Purview in the Act, the King may by a special *Non obstante* dispense with that Act, (except such as are inheritable to the Office of Sheriff, or other Offices in *London*) yet they may execute their Office during *Michaelmas*, S. f. and

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and *Hillary* Terms, if no Writ of Discharge come. *Vi-
de* 12 *Ed.* 4. *Cap.* 1. 7 *Rep.* 14. *Calvin's* Case.

Every Sheriff is to be Resident in his own Person with-
in his County during the Time he is Sheriff, (except he be
otherwise licenced by the King) *Per* 4 *H.* 4. *Cap.* 5.

A Sheriff of one County hath no Authority or Power
within another County; yet the Sheriff by Force of the
King's Writ, may carry the Prisoner through several
Counties, or make fresh Pursuit into other Counties, and
the Prisoner shall be said to be in the Custody of the first
Sheriff in every County.

The Sheriff is not to let his County to Farm, *per Stat.*
23 *H.* 6. *Cap.* 10. by the Sheriff's letting his County to
Farm, is understood of the *Proficua Comitatus*, which
was considerable, when most Law-Suits were transacted
in the Counties and in the Hundred Courts; Fines, Issues,
and Amerciaments being considerable. And in the Time
of *Henry* the 3d. the Bailiffwick of one County was let at
100 *l.* *per Annum*, a great Sum in those Days. There
was a Bond for Rent on a Lease of the Bailiffwick of the
Savoy; now the Statute 27 *H.* 8. *Cap.* 24. being a gene-
ral Statute, and the Conclusion general *Contra Formam*
Statuti, will avoid this Contract. *Per Stat.* 23 *H.* 6. the
Security is void, tho' it hath no expresse Words to avoid it;
but *per Curiam* 23 *H.* 6. being a particular Law should have
been pleaded, and the Statute of 27 *H.* 8. is but a Relative
Statute. *Per Stat.* 4 *Ed.* 3. *Cap.* 9. the Sheriff shall not
let Hundreds to Farm. It was resolv'd in *Stockwith* and
North's Case, that the letting to Farm Offices was *ma-
lum prohibitum* against the Statute of 4 *H.* 4. *Cap.* 5. and
also *malum in se*. And therefore, because the Sheriff of
Nottingham took Money for the Gaolership, and the Bai-
liffwick of the County for one Year, he was fin'd in the
Star-Chamber. The Penalty for offending these Laws
is 40 *l.* Tho' the Sheriff be so much favour'd and re-
spected in the Law, and in the very Execution of Crimi-
nals; yet he shall be guilty of Homicide, for not obser-
ving the Order of Law in putting a condemn'd Man to
Death. 7 *R.* p. 13.

A Sheriff may not prescribe, that he and all those, who
have been Sheriffs have been seiz'd of a certain Gift at
every Turn held, &c. for the Sheriffs is put in by the
King

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King every Year and removeable at Pleasure; *Vide* 42 *Ed.* 3. 5. But in 21 *H.* 7. 17. *b.* an Under-Sheriff prescribes, that he and all Under-Sheriffs of the County have used to have so much for Bar-Fees, and admitted good. (*Compleat Sheriff.*)

(6) 24 *H.* 8. *Cap.* 13. Statute of Apparel.

Baronets (1) come next, who by having granted them the Addition of Sir, to be set before their Names, seem allied to Knighthood; but this (saith *Ashmole*, in his Treatise of the *Order of the Garter*) (2), gives them not the Dignity of Knighthood; nor can they properly be stiled Knights until they be actually Knighted. It is a Dignity or Degree of Honour that hath Precedence before Bannerets, Knights of the Bath, and Knights Batchelors; except only such Bannerets as are made *sub vexillis Regiis in Aperto Bello, & ipso Rege personaliter præsente*. This Order was erected by King *James* the 1st, (3) *Ann.* 1609. withan *Habendum sibi & Heredibus Masculis*: The Ground for erecting whereof take in Sir *Richard Baker's* (4) own Words (5); *viz.* In the Year 1609. the King having Care for the Quietness of *Ireland*, had granted to the City of *London*, the present Possession and Plantation in the Province of *Ul-*

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ster ; whereupon afterwards in the Year 1612, they sent thither about three hundred Persons of all Sorts of Handicrafts-men chiefly to inhabit the two Cities of *Londonderry* and *Cole-rain*, where they ordain'd Alderman *Cockain* for the first Governor. And, for their advancing of this or the like Plantation in *Ireland*, King *James* about this Time began a new Order of Knights, which are call'd *Baronets*, because they take Place next to Barons younger Sons ; and he appointed certain Laws to make those capable that should be admitted ; first, that they should maintain each of them the Number of thirty Foot-Soldiers in *Ireland* for three Years, after the Rate of 8 *d. per diem* (so that their Foundation was partly Martial) and to pay the Wages of one whole Year, upon the passing of their Patent ; then that they should be Gentlemen of Blood of three Descents ; And lastly should have Land of Inheritance in Possession, or immediate Reversion to the Value of 1000 *l. per Ann.* And to keep the Order from swarming, he stinted it within the Number of only two Hundred, and as the Issue should fail, the Order to cease. But he that will look how well the End of the Institution, and the Laws of it have been observ'd, shall

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shall perhaps find it to be here, as it was in the Order of *St. Michael* in *France* : Into which at first none were admitted but Princes and eminent Persons, but afterwards all Sorts of Men without any Difference were admitted; that it came almost to be doubted, whether the Dignity of the Order did more grace the Persons, or the Meanness of the Persons disgrace the Order. And indeed, when the Laws of an Institution are not in some Measure observ'd, it seems to make a Kind of Nullity in the Collation. Thus far *Sir Richard Baker* ; so that we may believe, that where the Word *Baronets* is mentioned in our old Statutes, and antient Authors, it is mistaken for *Bannerets*.

Esquires

(1) *Baronets.*] The Word *Baronet* (saith *Selden*) was ancient, as is already shew'd in the Title of *Banneret*, both of *France* and *England* ; but as it was in such Use, it hath no Relation to this latter Title. The first Creation of this, was in the 9th Year of King *James*. He in that Year, on the 22d of *May*, made divers by Patents, that differ'd not one from another in any Syllable, more than the Names of them that were created. Afterwards divers others were made by the like Patents, that pass'd to some by Warrants of the Privy-Seal ; and to others by Warrants of Commissioners authoriz'd under the Great Seal, for treating with such as desir'd to be created upon the Terms in the Preamble of the Patent (which were the same *Sir Rich. Baker* maketh mention of in his *Chronology*

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ster ; whereupon afterwards in the Year 1612, they sent thither about three hundred Persons of all Sorts of Handicrafts-men chiefly to inhabit the two Cities of *Londonderry* and *Cole-rain*, where they ordain'd Alderman *Cockain* for the first Governor. And, for their advancing of this or the like Plantation in *Ireland*, King *James* about this Time began a new Order of Knights, which are call'd Baronets, because they take Place next to Barons younger Sons ; and he appointed certain Laws to make those capable that should be admitted ; first, that they should maintain each of them the Number of thirty Foot-Soldiers in *Ireland* for three Years, after the Rate of 8 *d. per diem* (so that their Foundation was partly Martial) and to pay the Wages of one whole Year, upon the passing of their Patent ; then that they should be Gentlemen of Blood of three Descents ; And lastly should have Land of Inheritance in Possession, or immediate Reversion to the Value of 1000 *l. per Ann.* And to keep the Order from swarming, he stinted it within the Number of only two Hundred, and as the Issue should fail, the Order to cease. But he that will look how well the End of the Institution, and the Laws of it have been observ'd, shall

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shall perhaps find it to be here, as it was in the Order of *St. Michael* in *France* : Into which at first none were admitted but Princes and eminent Persons, but afterwards all Sorts of Men without any Difference were admitted; that it came almost to be doubted, whether the Dignity of the Order did more grace the Persons, or the Meanness of the Persons disgrace the Order. And indeed, when the Laws of an Institution are not in some Measure observ'd, it seems to make a Kind of Nullity in the Collation. Thus far *Sir Richard Baker* ; so that we may believe, that where the Word *Baronets* is mentioned in our old Statutes, and antient Authors, it is mistaken for *Bannerets*.

Esquires

(1) *Baronets*.] The Word *Baronet* (saith *Selden*) was ancient, as is already shew'd in the Title of *Banneret*, both of *France* and *England* ; but as it was in such Use, it hath no Relation to this latter Title. The first Creation of this, was in the 6th Year of King *James*. He in that Year, on the 22d of *May*, made divers by Patents, that differ'd not one from another in any Syllable, more than the Names of them that were created. Afterwards divers others were made by the like Patents, that pass'd to some by Warrants of the Privy-Seal ; and to others by Warrants of Commissioners authoriz'd under the Great Seal, for treating with such as desir'd to be created upon the Terms in the Preamble of the Patent (which were the same *Sir Rich. Baker* maketh mention of in his Chronolo-

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gy of the Kings of *England, &c.*) and for giving Warrant for the Creation of them. And to those Commissioners Instructions were also annex'd to their Commission, &c. That Commission held but for some Part of that Year: Since, divers have been created into that Dignity, whose Patents are obvious in the Rolls; and the Year following a Decree was made, touching their Place and Precedence; to which was also added, that the Baronets and their eldest Sons being of full Age should be Knighted; and that they and their Descendants should bear either in a Canton in their Coat of Arms, or in an Escutcheon, at their Election, the Arms of *Ulster*; that is in a Field Argent an Hand Gules, or a bloody Hand; and also that Baronets for the Time being, should have Place in the Armies of the King's Majesty, his Heirs and Successors, in the Grofs near about the Standard, with some other Particulars for their Funerals. (*Tit. Hon.*)

(2) *Octavo Edit.* p. 7.

(2) *James* the First] of *England*, and Sixth of *Scotland*, succeeded his Mother *Mary*, and was Crown'd at *Sterling*, when not above two Years old, by Commission from the Queen, who resign'd the Government to the Earl of *Murray*, chosen Regent during his Minority: And a Parliament being call'd, an Act was made for abolishing the Pope's Authority in *Scotland*: After which many Contests arose in Matters of Religion, some Lords being for Reform'd Episcopacy, and others for the Presbyterian Discipline of *Calvin* in *Geneva*. In 1603, News came that Queen *Elizabeth* was dead, and had declar'd him her Successor, which overjoy'd the *Scotch* Nobility, who were of Opinion that the Peers of *England* would never acknowledge she was dead, so long as there was an old Woman alive in the Kingdom to wear good Cloaths, and take the Name of Queen upon her. Two Years after, the horrid Gun-Powder Treason, contriv'd by the Papists, was discover'd. March the 27, 1625, the King died at *Theobalds* in the 59th Year of his Age, and the 22d of his Reign.

His Character I shall subjoin, taken out of *Rushworth's Collections* (*Vol. 1. Fol.*) which he extracts from the Author,

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thor, who hath lately written the History of Great Britain.

He was a King in Understanding, and was content to have his Subjects Ignorant in many Things; as in curing the King's Evil, which he knew was a Device to ingrandize the Vertue of Kings, when Miracles were in Fashion: But he let the World believe it, tho' he smil'd at it in his own Reason, finding the Strength of Imagination a more powerful Agent in the Cure, than the Plaisters of his Chirurgeons prescribe for the Sore. It was an hard Question, whether his Wisdom and Knowledge exceeded his Choler and Fear: Certainly the last couple drew him with Violence, because they were not Acquisitions, but Natural: if he had not had that Allay, his high towering and mastering Reason had been of a rare and sublime Excellency, but these earthly Dregs kept it down, making his Passions extend him as far as Prophaneness (that I may not say Blasphemy) and Policy superintendant of all his Actions, which will not last long (like the Violence of that Humour) for it often makes those that know well, to do ill, and to be able to prevent it.

He had pure Notions in Conception, but could bring few of them into Action, tho' they tended to his own Preservation: For this was one of his Apopthegms, which he made no timely use of; (Let that Prince that would beware of Conspiracies, be rather jealous of such, whom his extraordinary Favours have advanc'd, than of those, whom his Displeasure hath discontented; these want Means to execute their Pleasures, but those have Means at Pleasure to execute their Desires) Ambition to Rule, is more vehement than Malice to Revenge. Tho' the last Part of this Aphorism he was brought to practise too soon, where there were no Causes for Prevention, and neglect too late, when Time was full ripe to produce the Effect.

Some parallel'd him to *Tiberius*, for Dissimulation; yet Peace was maintain'd by him as in the Time of *Augustus*: And Peace begat Plenty, and Plenty begat Ease and Wantonness; and Ease and Wantonness begat Poetry, and Poetry swell'd to that Bulk in this Time, that it begat strange monstrous Satyrs against the King's own Person, tat haunted both Court and Country; which express'd,

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would be too bitter to leave a sweet Perfume behind him ; And tho' bitter Ingredients are good to imbalm and preserve dead Bodies, yet these were such, as might endanger to kill a living Name, if Malice be not brought in as an Antidote ; and the Tongues at those Times more fluent than my Pen, made every little Miscarriage (being not able to discover their true Operations, like small Seeds hid in Earthly Darknes) grow up and spread into such exuberant Branches, that Evil Report did often pearch upon them ; so dangerous it is for Princes by a remiss Comportment to give growth to the least Error ; for it often proves as fruitful as Malice can make it. The same Character almost of this Prince is to be met with in *Eachard's History of England*, Vol. I. and in other Authors.

(4) *Baker*] Sir Richard: Author of the Chronicle of the Kings of *England*, was Son of *John Baker* of London, Gentleman, and born in *Oxfordshire*, whereof he was High-Sheriff in the Reign of K. *James* the First, and A.D. 1621. Besides his Chronicle, he wrote an Exposition on the Lord's Prayer, not inferior to the best Comments on that Subject, and died about the Beginning of the Civil Wars.

(5) In his Chronicle of Kings of *England*, Fol. p. 416. Ninth and last Edition.

(1) *Esquires.*]

Esquires (1) come next ; *Armigeri*, in *French*, *Scutiferi* ; who were originally such as attending upon Knights in time of War, and did carry their Shields : But this Addition (2) hath not of long time had any relation to that Office ; but signifieth with us a Gentleman, or one that beareth Arms as a Testimony of his Nobility or Genti-

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Gentility, and is a mere Title of Dignity next to, and below a Knight: They who by Right claim this Title now, are all the younger Sons of Noblemen, the four Esquires of the King's Body, the Eldest Sons of all Baronets, Knights of the *Bath*, and Knights Batchelors; those who serve the King in any worshipful Calling, such as are created Esquires by the King with a Collar of SS's of Silver,

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(1) *Esquires,*] The Title of Esquire or *Armiger* (saith *Selden*) is between the Dignity of Knight Batchelor, and the common Title of Gentleman. And it is of that Nature with us now, that to whomsoever, either by Blood, Place in the State, or other Eminency we conceive, some higher Attribute should be given, than that sole Title of Gentleman, knowing yet that he hath no other honorary Title legally fix'd on him, we usually stile him an Esquire in such Passages as require legally that his Degree or State be mention'd; as especially in Indictments and Actions, whereupon he may be outlaw'd, (*Juxta Stat. 1 Hen. 5.*) Those of other Nations, that are Barons or great Lords in their own Countries, and no Knights, are in legal Proceedings stil'd with us Esquires only. Some of our greatest Heralds have their Divisions of our Esquires applied to this Day. They may easily be found in *Cambden*, *Segar*, &c. The Original of this Title, doubtless, was with us also from the Office or Function of *Armiger*, or *Scutifer*, touching which enough hath been already spoken in the Dignities of the Empire and of *France*. From the Time of King *H. 5.* when the Statute of Additions was made, it often occurs in a legal Addition. Yet long before it was a general Name with us, for such as were, it seems, by their military Employment, *militaris ordinis Candidati*, and

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and being beneath Knights Batchelors, were either attendant on them, or some greater Persons, or employ'd otherwise in the Wars under that Name; or had it by Creation, whereof some Example shall be by and by shew'd. Thence it is, that in *Froisart*, we have so frequently Chevaliers and Esquires to express the best part of the Army, and the like of *Milites* & *Armigeri* in others. In the Elder Times, *Serviens* seem'd to supply the Title of Esquire, and yet is sometimes distinguish'd from it, and divers other observable Passages are found touching both Titles, some of which (*Selden* goes on) I had rather here select, and offer them to the View of better Judgments, than rashly extract any Conclusions from them.

The ancientest Mention that I can remember with us of the Title of *Armigeri*, is in *Ordericus Vitalis*, speaking of *William Fitzosborn* Earl of *Hereford*, and *Odo* Earl of *Kent*, in the Time of the Conqueror, *nimiâ Cervicositate tuebant* (saith the *Hist. Ecclesiast. Lib. 4. Pag. 507.*) & *clamores Anglorum rationabiliter audire, eisque aquitatis lance suffragandi despiciebant; nam Armigeros suos, immodicas prædas, & incestos raptus facientes, vi tuebantur.* And at *Banham-Downe* (saith *Matthew Paris, Pag. 312. Edit. Lond.*) *estimati sunt inter milites electos, & servientes strenuos & bene Armatos sexaginta millia fortium virorum.* In the Army also at *Lincoln*, in the Beginning of *K.H. 3.* on the King's Part *recensiti sunt* (says the same Writer, *Pag. 393, and 396.*) *Milites 400, Bacchilarii ferme 250; servientes quoque & equites tot & tales affuerunt innumeri quot vices militum possent pro necessitate implere; And there were taken of the Barons part; Milites 400 præter servientes, equites & Pediles qui facile sub numero non cadebant. Atque interfectus est in illo conflictu serviens quidam ex parte Baronum omnibus ignotus.* And afterwards *milites etiam omnes & servientes, sine pœna & redemptione relaxati sunt a Rege.* *Bracton* also speaking of the Knights (*Tract. de Essoniis. Cap. 10. Sect. 2.*) that are to be sent by the Sheriff to make the View upon an *Essoin de malo lecti* says, that is not sufficient *si vicecomes mittat Servientes; milites enim esse debent, ropter verba Brevis; as* if clearly *Serviens* had been next Dignity to Knight, yet the young Heirs that were to be Knighted (and so in the

next

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next Degree to a Knight) were comprehended also under the Title of *Valetti*. (*Bracton Lib. 3. de Corona. fo. 116.*)

And *Valet* or *Vadlet* was anciently with us, as in *France*, also a Name specially denoting young Gentlemen, tho' of great Descent or Quality, altho' it be now both with us and them given to those of the Rank of Yeomen. And so was it taken under *H. 6.* with us, as we see in the Statute of his 23d Year touching the Choice of Knights of the Shire. And *Vadlet* is but the same Word, which is become to be *Varlet*, and signifies sometimes as Knave now doth, altho' both of them were Anciently Names of Civil Degrees or Service only, as among divers other Testimonies in an old little Glossery of *Nomina Graduum*, of about 200 Years since. The Words are *Garzonet*, little Boy; *Garzon*, Knave; *Varleton*, Groom; *Varlet*, Yeoman; *Gentilhome*, Gentleman, &c. But for *Servientes*, the Rolls of the *Vadia Militum* in the Tower, and the Account Books of the Wardrobe have them frequently distinguish'd from *Scutiferi*, or *Armigeri*; yet in our Year-Books, *Temp. Ed. 3.* the Name of Serjeant, (the same with *Serviens*) is us'd for the next to Knight also. Under *R. 3.* we find the Name of Esq; expressly given as a created and honorary Title by Patent. One *John de Kingston* was so by Patent receiv'd into the State of a Gentleman, and made an Esquire by King *R. 2.* And it might reasonably be conceiv'd, that the Title of Esquire was then only such, as was either thus created, or otherwise acquir'd by Service or Employment. *Chaucer*, after the Description of his Knight (whom as the rest he describes with such Particulars, as best Design the Nature of him) gives the Character of an Esquire in these Words, *viz.*

With him there was his Son a young Squire,
A Lover, and a lusty Bachilere,
With his Locks Crull, as they were laid in Press,
Of twenty Year of Age, he was, as I gues.
And he had be sometimes in Chivauchie,
In Flanders, in Artois, in Picardie,
And born him well, as of so little Space,
In hope to stand in his Ladies Grace.

Curteis

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*Curteis he was, lowly, and serviceable,
And Kerft before his Father at the Table.*

Here both his Practice of Arms and his Attendance on his Father being a Knight, are noted. His Attendance being as that of those Shield-Bearers or Esquires, that waited on the old *Gauls* at their Round-Tables, whereof *Possidonius* speaketh in *Athenaus* (*Deipnosoph. Lib. 4.*) *Chaucer* also in his Merchant Tale.

*All but a Squire that hight Damian
Which Carft before the Knight many a Day.*

The like is elsewhere also in him. And for the necessary Attendance of an Esquire upon every Knight in the elder Ages long before *Chaucer*, That of Sir *Francis Tear's* recovering 5 *l.* Damages under *Ed. 1.* in *Wakefield Court* in *Yorkshire*, against one *German Mercer*, for arresting the Horse of one *William Lepton*, that was his Esquire, and so making him to be unattended, is observable. The Attendance likewise of two Esquires on every Knight, at his receiving the Order of the *Bath* at this Day, from the elder Times is to be noted; And they are somewhat proportionable to those *οἰκῆται*, or Ministers, or Esquires, that, together with the third Horseman on whom they attended, made up the *Trimarcisia* among the *Gauls*, which *Pausanias* mentions. And the Name of Esquire, with a possessive Relation to Knights and others above them, is often us'd in the elder Times, as it is at this Day, when we speak of Esqrs. of the Body, And it seems plain, *Temp. H. 4.* the Title was fix'd on some, without any Reference to the Wars, but only by Service on great Persons. And *Temp. H. 5.* it was (as it hath been since) very common to use the Addition of Esquire absolutely also, either in the first or third Person, as may be seen both in the Pleas of that Time, and in the Wills then made, of which divers are in the first Part of the Register of *Chicheley A. Bp.* of *Canterbury*. And in the Officers of the Household and elsewhere; divers times *Milites*, *Armigeri*, *Valletti*, and *Garciones* occur, one immediately after the other; see also

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to the Statutes of Apparel under *Ed. 4.* (3 *Ed. 4. Cap. 5.*
Ed. 22 Ed. 4. Cap. 1.)

But in the antient Creation of the Dignity (when such as otherwise had it not, were created into it) it was noted that a Collar of SS. was given by the King as an Ensign of it receiv'd; (*Cambd. in ordinibus Ed. de Collari Sigmatico in Reliquiis.*) Justice Norton under *H. 6.* saith, If a Writ of Debt be brought against the Serjeant of the Kitchen in the King's House, I may Name him *Cook*, and my Writ is good enough, and yet he hath a Collar and is a Gentleman; (*14 H. 6. fol. 15.*) Here he useth the Word Gentleman, applying it to those that were so made Esquires by the King's Favour, because also, they were by their Creation put in the Rank of the most eminent Sort of Gentlemen, on whom the Title of Esquire hath since been so fix'd. Nor is that old Pamphlet of the Tanner of *Tamworth* and *K. Ed. 4.* so contemptible, but that we may hence Note also an observable Passage, wherein the use of making Esquires by giving Collars is express'd.

*A Coller, a Coller, our King gan cry,
 Quoth the Tanner, it will breed Sorrow,
 For after a Coller cometh a Halter
 Itrow I shall be hang'd to morrow.
 Be not afraid, Tanner, said our King,
 I tell thee so mought I thee,
 Lo; here I make thee the best Esquire
 That is in the North Countrie.*

A special Example of this kind of Collar we have on that Statue of *John Gower*, famous for his Poesy, *Temp. R. 2.* which is in *St. Mary Overie's Church* in *Southwark*. I know some deliver it to be an Ensign of Knighthood on him, as *Bale* and *Pisus*: but they are deceiv'd; *Gower* was no Knight, but an Esquire only. The *Epitaph* there join'd to the Statue shews it.

Armigeri lutum nihil a modo fert sibi tutum, &c.

Yet also this kind of Collar was heretofore a wearing of Knights likewise as we see in the Statutes of Apparel (*24 H. 8. Cap. 13.*)

Now

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Now as in those elder Times of Military Action, such Gentlemen as were employ'd in Service, receiving their Dignity either at home or abroad, were frequently, it seems, for Distinction from the rest, and as by a Note of Honour call'd Esquires (into which Title also some were created) so at length, especially in the Times of Peace, when Military Service could make but little Distinction, they that by Birth, or other Eminency were commonly thought worthy of some Note of Distinction above the ordinary Rank of Gentlemen, have had the same Title given unto them. (*Tit. Hon.*)

(2) Addition of 1 Esquire rare before *H. 5. Vide 1 H. 5. C. 5. of Additions. (Co. Inst. 2.)*

(1) Pre-

The chief of some antient Families are likewise Esquires by Prescription (1), those that bear any superior Office in the Common-Wealth, a Justice of Peace (2) whilst in Commission, and utter Barristers (3). In *Walsingham's* (4) History of *Richard II.* we read of one *John Blake*, who being *juris Apprenticius*, has the Addition of *Scutifer* given him, *Cambden* having spoken of Knights, hath these Words of them, *viz. Armigeri nobis Esquires, his proximi sunt, qui vel a Clypeis Gentilitiis, quæ in Nobilitatis Insignia gestant, vel qui Principibus, & Majoribus illis, Nobilibus ab Armis erant, nomen traxerunt; hodie vero quicunque in aliquo Republicæ loco consistunt, vel principi honestiori conditione famulantur, hoc titulo quasi suo jure utuntur.*

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tur. Hotman (6) in the sixth Chapter of his Disputations upon Feods, saith, that those whom the French call *Escuires*, were a Military kind of Vassal, having *jus Scuti*, i. e. they bear a Shield, and in it the Ensigns of their Family, in Token of their Gentility or Dignity.

(1) *Prescription.*] *Prescriptio*, is a Title taking its Substance of use, and Time allow'd by the Law, which is beyond the Memory of Man; (*Kitchin fo. 104.*) says thus: Prescription is when for Continuance of Time, *ultra memoriam Hominis*, a particular Person hath particular Right against another particular Person; with whom agrees, *Co. Lib. 4. fo. 32.* and *Co. upon Lit. fo. 140.* But as in the Civil Law, so likewise in the Common, Prescription may be in a shorter Time, at least in some special Cases. As for Example, where the Statute 1 *H. 8. Cap. 9.* saith, That all Actions popular must be su'd within three Years after the Offence committed; And the Statute 7 *H. 8. Cap. 3.* that four Years being past after the Offence committed in one Case, and one Year in another, no Suit can be commenc'd. And the Statute 31 *Eliz. Cap. 5.* saith, That all Actions, &c. brought upon Statute, the Penalty whereof belongs to the King, shall be brought within two Years after the Offence committed, or else be void. And the Statute 39 *Eliz. Cap. 1. 2.* saith, that Actions brought after two Years by any common Person, or after three Years by the King alone for decay of Husbandry shall be of no Force. Whosoever offendeth against any such Statute, and escapes unquestion'd for two Years or three, of the two latter of the three foremention'd Statutes may justly be said to have prescrib'd against that Action. The like may be said of the Statute made 23 *Eliz. Cap. 1.* which saith, that all Offences compriz'd in that Statute made 13 *Eliz. Cap. 2.* are inquirable before both Justices of Peace

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Peace and Affize, within a Year and a Day after the Offence committed: Also the Title that a Man attaineth by the Passing of five Years, after a Fine acknowledged of any Lands or Tenements, may justly be said to be obtain'd by Prescription. And whereas the Statute made 8 R. 2. Cap. 4, saith, that a Judge, or Clerk convicted for false entring of Pleas, may be Fin'd within two Years, the two Years being past, he prescribeth against the Punishment of the said Statute. And whereas the Statute of 11 H. 7. says, that he who will complain of Maintenance or Embracery, whereby Perjury is committed by a Jury, must do it within six Days: Those six Days ended, the Parties prescribe; and divers other Statutes have the like Limitation of Time, whence may arise a like Prescription. *Prescriptio est jus quoddam, ex tempore congruens, Autoritate Legum vim capiens, penam negligentibus inferens, & Finem litibus imponens Quadragenalis Prescriptio omnem prorsus Actionem excludat. Reformatio legum Eccles. pag. 246. Inst. 2. Stamf. Prærog. Cap. 8. &c. (Cowel's Interp.)*

(2) *A Justice of Peace.*] Having the Honour to serve his Majesty King George in this Capacity; should I be silent upon this Article, I might lie under the Imputation of being a Contemner and Despiser of that Commission, which I really have the greater Regard and Value for, in that the Style thereof runs in his most Sacred Name, and if I chance to be too prolix upon this Head, the Reader must consider I am now got into my own Province, which I cannot quit without Difficulty.

To begin then.

The Office of a Justice of the Peace, as it is Ancient, so is it very Reputable, they who bear this Office, being appointed by the King to be *Censores Morum*, in some Respect: And by reason of their great Number and Quality, as likewise by their Employments, they be allow'd to have a very considerable Influence upon the Affairs of a Kingdom. Disorders of whatsoever kind, as Riots, Frays, Prophanation of the Lord's Day, Swearing, Drunkenness, Frauds in Dealing, Purloignings, Hedge-breakers, Destruction

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struction of Game; all unlawful Gaming, Vagabonds; as also greater Offences against the Crown, as Treason, Murders, Thefts, Burglaries, with infinite other Enormities, fall under their Cognizance; but more especially are they bound by Duty to have a strict Regard to these three Particulars, *viz.* 1. Ale-houses. 2. Masters and Servants: And 3^{dly}, the Poor: So that in Matters of smaller Moment, they have the Final Decision, and of all Criminal Causes whatsoever, which shall happen within their respective Limits, they have the first Examination, and by them such Offences are remitted to a further Tryal.

Now Country Gentlemen are look'd upon to be the fittest Instruments for executing this Trust; and that upon these two Accounts, 1st. In regard of their Estates: For being (or at least as they ought to be) Gentlemen of Fortune, they are not apt to be corrupted as other Officers, whose Fortunes and Livelyhood depend upon the Profit of their Office. In the next Place, living in the Neighbourhood, they are more competent Judges of Persons and Offences, and more easy to have Recourse to for Remedies of all Disorders, than others, who are Strangers, and at a greater Distance. But notwithstanding the good and laudable Intention of the Government, there are to be found daily too-too many of undue Qualifications, entrusted with the Execution of this Important Charge: Some there are indeed very Beneficial to the Country, and an Ornament to their Office; but whilst others are Defective, the Reformation of Manners makes but small Advance. But however the Case stands, 'tis certain, that none ought to be deputed to this Post, but such as are duly qualify'd as to these Particulars: 1. A Competency of Knowledge. 2. Integrity of Life. 3. Courage and Resolution. And 4. Prudence, or a Command over his own Passions,

The first Qualification necessary in this Magistrate, is Competency of Understanding or Knowledge of the Laws, Statutes, and Customs of the Nation in which he lives. I don't think it necessary he should be as learned as *Tiberian*, *Cujac*, or *Sir Edward Coke*; that he should be able to penetrate all the Difficult Cases, which may arise betwixt Man and Man, whether in these publick or private Relations, with all the Niceties which a scrupulous and

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subtle

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subtle Brain can start or invent; so on the other Hand, it might reasonably be expected, that he should be one of something a better Culture than to be able only to write his Name in a scrawling Character. Long Coats may become some sorts of Creatures well enough, but to see them in long Robes or the Habiliments of Magistracy, tho' it may move the serious Spectators sometimes to Merriment and Laughter, yet it cannot chuse but touch them with a secret Dislike.

The next Qualification requisite in a Magistrate, is Integrity of Life and Manners: And this indeed is something more commendable than the former; for Knaves there are, and too many of them, who have a sufficient Stock of Understanding or rather of Learning: But to be a good Man, as it clears his Reputation from all Imputation and Craft, so it delivers him from the opprobrious Character of a Fool. A Fool, 'tis true, may sometimes commit an honest Act, as a good Man may a Fault, by Inadvertency and Mistake; but he who is truly Honest and Conscientious proposes well in all his Designs without Hypocrisy and private Reserve, and seldom Trips or makes a Blunder: The Example of a Magistrate is certainly more efficacious than his Orders; for by the one he excites and invites, by the other he drives and compells, which implies something of Reluctancy, on his Part who is commanded; And since Men are naturally very prone to Vice, they cannot but Post onwards with a full Career, when they are assisted with the Wings of Authority: For who can be ever brought to have a Detestation of Drunkenness and of mispending his Time, when he has the Authentick Examples of Justices of the Peace before his Eyes, not only inviting them to Drinking and making such Excess Genteel and Orthodox, but Patronizing (perhaps) the very Houses themselves, as the Soul and Centre of their Mirth and Refreshment, and the best Support possibly of their Interest.

Besides this, there is another Sort of Corruption, to which Men in Office are often Subject, *viz.* Partiality in the Administration of Justice, which proceeds sometimes from an irregular Affection, but more frequently from Bribery and Covetousness. This is an Epidemical Distemper, which has reign'd in all Ages, Places, and Persons

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Persons almost, and will continue to the End of the World; so that a Magistrate, many times like the Balance (the Symbol of his Office) inclines to that Side, where most is receiv'd; so that a small Quantity of Metal, if of the heaviest kind especially, will quickly turn the Scales.

Demosthenes was a Man of great Boldness, of excellent Parts, and for a great while an uncorrupted Patriot of his Countries Liberties and Properties, no doubt; for by the Force purely of his Eloquence he kept the *Athenian* State steady to their Interest, against all the Intrigues and Insinuations of a subtle and aspiring Prince, who under shew of defending the Weaker against the Stronger, actually enslav'd most of the *Grecian* Republicks; But no soft, cankerly Speeches of *Philip* could move *Demosthenes*; for he was as good or better at that Trade than the King. But *Alexander* his Successor took another Method; For sending *Harpalus*, his Ambassador, to *Athens*, with vast Treasure, and Presents of an inestimable Value, many of the Senate were debauch'd by these Means, the chiefest of which was *Demosthenes*, their Orator; upon the Wheels of whose Tongue their Government seem'd to turn: For as the Ambassador was putting his Retinue and Baggage ashore, *Demosthenes* cast his Eye upon a certain Vessel, curious for the Workmanship as well as the Matter of which 'twas made, which the Orator could not forbear to admire and commend, which *Harpalus* observing, and judging by his Eye the Pulse and Bent of his Heart, sends it him secretly at Night full of Gold, the Lustre whereof could not be withstood by our Orator: But his Treason being discover'd, he was brought before the *Areopagites*, and condemn'd to pay fifty Talents, and to be sent to Prison, from whence he escap'd by Flight. The same Orator at another time was brib'd by the *Meleians*; and being call'd upon to harangue publicly against them, he entred the Senate with his Neck wrapp'd about with a great many Folds of Flannel, pretending that he had a Quinsy or Soreness in his Throat; whereupon some made this Sarcastm: That it was not the *Angina* or Quinsy, but the *Argentingina* (a Word ever after us'd for Bribery) which took away his Speech. From whence we may observe, That in the best of Times and of Governments

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there were some who pretending to be the Defenders of their Country's Liberties, turn'd Pensioners to those who would have undermin'd them.

Amongst the *Roman* Worthies, whose Works or Monuments are at this Day extant, there is none more eminent than *Seneca*; famous for his excellent Books of Morality, a profess'd Stoick, or one who plac'd Happinels in the Exercise of Vertue, and in the Subjection of our Passions; and famous likewise for his Death, which he receiv'd by the Command of *Nero*, whose Tutor sometimes he had been. And yet we find this Man of Morals to have been accused of Bribery, or perverting the Publick Money (for he was *Quæstor* or Treasurer) and that he was banish'd by *Claudius* for the same; and truly, if we consider the vast Treasure he scrap'd together, and which was seiz'd upon and confiscated after his Death, which (if some Reports be true) amounted not to much less than a Million of our Money, I know not how we shall preserve a due Honour for the Memory of this great Man, unless we say, that *Seneca* the Philosopher was a very good Man, but that *Seneca* the Courtier was a suspected Person.

To pass by *Theomistocles*, and others of the Antients, who were tainted with this Contagion, we have an Example of one in our own Kingdom (the Lord Chancellor *Bacon*) who had the Misfortune to fall under the like Suspicion; a Man, who was Great for his Place and Figure in the Government, but much more great for his Learning, and was remov'd from his Employment upon the like Charge of Corruption: so that this great Personage seems to tell us (in an Epistle Dedicatory to Bishop *Andrews*) that his Case had in some Measure a very near Resemblance to that of *Seneca*. But when we consider the Manner of Life in this excellent Writer, being wholly immers'd in his Philosophical Studies, and publishing of Books, leaving the Management of Business, for the most Part, to his under Officers and other Domesticks, upon whose Informations he might depend, it may reasonably be imagined by any ingenuous and impartial Considerer, that many Things might be carried on under his Authority, which he was not privy to; however, so it happens oftentimes, that the Master suffers for the Faults of his Servant; and yet the Master himself is not without Fault,

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Fault, but is guilty of great Imprudence and Breach of Trust, in leaving that to others, which he ought in Duty to execute himself; so that Bookish Men seldom make good Men for Business.

And truly amongst those, who are destin'd for the lesser Wheels of Business, 'tis not rare to find one here and there of mean Fortune, but of a meaner Spirit, who covets to be in an Office, which he manages with that Prudence, as never to want small Timber for House-keeping; some likewise there are of this Tribe, who if a Complaint be brought against an inferior Fellow by one of a better Degree, 'tis five to one, but he shews Indulgence towards the meaner Person; this at first Blush looks like Clemency and Moderation, when in Reality it's his sordid Interest which tempts him to this Method; for by this Means he has a Creature always at his Devotion, to help him possibly in Harvest, or upon some other Occasion; or if an Artificer, he must be always at his Beck, and work at lower Rates; besides a Kindness shewn to an inferior Fellow makes a great Noise, and is in all Mens Mouths, so that a firm Interest is by this Means gained in all others of the same Level, which is a Thing very advantageous to make a Man popular, especially in Matters which are carried not by Weight, but by Numbers; whilst one of highest Order, when he has an Award, owes no Thanks, and consequently no Service, where he is oblig'd only to the Merits of his Cause, or perhaps standing near upon the same Height of Ground with his Worship, he cares not much to creep and sneak at his Elbow. 'Tis not rare to observe likewise, how the tender-hearted Female, the good Gentlewoman of the House, has a mighty Influence upon these Matters, inclining such a Judge of Differences to compassionate the Distressed; for what tender Bowels will not yearn with Pity at the lamentable Cries of a whole Pannel of innocent and complaining Children, especially when their Testimony shall be strengthened and supported with the weighty Evidence of a very creditable, upright, and uncorrupted Sugar-Loaf.

Another Qualification requisite in a Magistrate is Courage; and this, 1st, In respect of the Persons he is to judge betwixt. For as he ought not to favour a poor Man in his Suit; in like Manner ought he not to be afraid to censure the Rich, where there is just Cause of Complaint

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brought against him ; so that whilst Justice is blind, as to the Quality of the Person, it ought to be Eagle-ey'd as to the Nature of the Cause. In the next Place every good Magistrate ought to shew his Courage in Relation to the Times he lives in, that is, not to be Meal-mouth'd in doing what is just and honest, for fear of being evil look'd upon by the higher Powers. The Truth of it is, the Way to make the Times peaceable and quiet is, to punish tumultuous and riotous Disorders, and not to suffer them to run on without Controul, till the Authors of them shall of themselves think good to be Civil.

The last Qualification a good Magistrate ought to be endow'd with, is Prudence and Moderation of his Passions ; so that if this be wanting, let a Man otherwise be never so well qualified, he is utterly unfit to be a Moderator of Differences ; 'twas wisely therefore said by the Heathen Poet, that Prudence comprehended all the other Deities whatsoever, notwithstanding Fortune be that Goddess, which in the Opinion of Men, is most or solely ador'd. Certainly it is, that Prudence is a Complex of many excellent Vertues ; 'tis circumspect and diligent, and *Janus* like, looks forwards and backwards ; it examines Things with great Attention and Application of Thought, and determines Consequents upon mature Consideration ; it implies Patience and a Subjection of Passions, and by the steady Bent of a vigorous Mind, accompanied with the greatest Sedateness of Temper, it reduces all its Decisions to the Test and Measure of Reason ; nor does it perform its Duty with a sly Squint-ey'd Regard to its own private Interest, sailing by every Point of the Compass, (which in the Opinion of the Worthies of the Age, is call'd mighty Prudence) but without collateral Respect and Byass, it is guided by Truth and Honesty, as the sole Magnet which attracts, or rather the Polar-Star by which it steers its Course, through the greatest Depths in Times of Darknes ; all which require, I say, great Vigilance and Activity, and yet withal great Smoothness of Temper, of which no Man certainly can be capable, who suffers himself to be hurried every Way, by his own violent and distracting Passions. Whilst the Body is in Agitation, 'tis impossible for the Arm to hold the Ballance ; and whilst the Eyes sparkle with Indignation and Rage, and the
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Man is transported with vehemence of Choler, 'tis impossible to discern the Difference in Weight; so that in Cases like these (which happen but too frequently) the Magistrate, whilst he pretends to judge another, is the Executioner upon himself; the Vexation and Torment, which he suffers in his own Spirit being a far greater Punishment, than what he might inflict upon an Offender; besides the secret Contempt, to which he is expos'd in the Eyes of all that see him, which with the Train of Absurdities thereon depending, must needs be a great Aggravation to his Trouble, there being nothing so sharp and pungent to a Man in Office as Scorn, especially from those whom we pretend to chastise.

'Tis true, there are many stubborn cross-grain'd Rogues, which a Magistrate hath oftentimes to deal with; to reform these by soft Admonitions and perswasive Methods, is all one as to polish or civilize a Wolfe by reading moral Lectures; no; such Brutes are to be tam'd by other Methods; tho' the Magistrate ought still to keep himself within the Circle describ'd by Reason, which should he go out of, he is in certain Danger of being torn in Pieces by Devils, I mean those real Furies, which are ever too near us in all our Walks. He who should grasp a Piece of burning Iron, and endeavour to fashion it for Use, may himself Peradventure, suffer the Punishment due to the Malefactor, in being burnt in his Hand; if therefore he would work upon the rude Lump, and make it fit for Service, he must hold it fast and hammer it with Instruments of the same Mettal; Beadles, Catchpoles, Gaolers, Hangmen, with such like Engines of Humanity, are the fittest Tools in the World for a Magistrate to work with in the Reformation of an obdurate Rogue; all which I say, may be so used and managed by him, as not to endanger his own Fingers, or discompose his Thoughts.

Thus I have glanced upon some of the Qualifications, which are requisite to the Constitution of a good Magistrate: To find a Man, in whom all these meet in full Perfection, is a Thing rare, if not impossible: however in some inferiour Degree, they are indispensably requisite, and for want of these, 'tis (I repeat it again) that the Nation falls into so many Disorders; whereas were Magistrates severe and conscientious in the Execution of their

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Charge, and Exemplary in themselves, Sobriety would be in Credit, disorderly Rogues would be reduc'd; Frugality and Industry would lift Men above the Troubles of Life, into a Region of Plenty; Parishes would have their Publick Charges lessen'd; the Poor would be employ'd, and by Consequence Husbandry would be improv'd; Trade advanced, and the Commonwealth grow Great and Flourishing; all which are such temporal Blessings, as cannot but make a Nation happy under the Favour of Almighty God, which we cannot reasonably hope for, till Drunkenness and Prophaneness be severely punished, and his Worship duly celebrated and honour'd; for when Men cease from the Performance of Religious Duties, they will soon degenerate from being Men; and yet notwithstanding the Corruptions of the Age, there are (God be thank'd) many Men in Office, of Publick, Generous, and untainted Principles, and of laudable Lives and Customs; but whilst some are defective, their ill Conduct proves Fatal to others. For Men (who are naturally inclin'd to Vice), will easily Copy after such Examples, as suit with their own Dispositions, whilst the Good, out of innate Modesty, or out of Fear, (belike) of offending their Equals, or being censur'd (possibly) for Morose, Formal and Puritanically Affected, suffer the Bad to run on in their full Career, without confronting them, or shewing any visible Dislike of their loose Behaviour. Let a Salad be compounded of never so many wholesome Herbs, one poisonous Weed, as Hemlock, &c. tho' it be hardly discernable by the Eye from what is good and healthful, shall embitter the whole Dish, and make it Baneful. In the mean Time, 'tis the Duty of every Man to erect a Court within his own Breast, and there examine his Life and Actions before his own Conscience, which Almighty God has put in Commission of the Peace over him, to direct his Actions, and to curb his Passions and extravagant Desires.

Now for the Etymology or Definition of their Name, why they are call'd Justices of the Peace; as also the Obligation, that lies upon them from their Oath to deliver a Charge (by the Mouth of the Chairman, their Speaker), to the Juries at their General Quarter-Sessions of Peace. And all this taken out of *Fitzherbert* and *Lambert's* Treatises

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tises upon this Subject, with which I shall conclude this Article.

As to the First, these and other judicial Officers in our Law, be call'd Justices (*per Metonymiam Subjecti*), because they do, (or should do) Law and Justice; for in many old Histories, the Chief Justice of England is term'd, *Capitalis Justitia*, & *prima (post Regem) in Anglia Justitia*: And the Original Writs, that are in *Glanvil's Book* (which was written under the Reign of King Henry the 1st) have this Form, *quod sit coram me, vel Justitiis meis*. And this (no doubt) was done of especial Purpose, and to the End, that the Mention of their Name, should put them in Mind of their Office, and should continually (as it were) sollicit them to administer Justice, for whose Sake they were appointed. But in the Days of King Henry the 3d, *Bracton* (who reduc'd the Body of our Law into *Latin*, and therein imitated the Method of the Civil Lawyers) chang'd the Word *Justitiis* into *Justiciariis*, and setteth down the Writs accordingly, *Coram Justiciariis nostris*; since which Time, not only all our Writs, that command Appearance before the Justices at *Westminster*, do use the Word *Justiciariis*, but all Commissioners of Sewers, of the Peace, of *Oyer and Terminer*, and such like, do observe the same Form also. And of this it cometh, that *Fitzherbert* (in his Treatise of Justices of the Peace) calleth them Justicers (contractly for *Justiciars*), and not Justices, as we commonly (and not altogether improperly) do name them. But this is but Part of their Name; we must look out (next) for the Signification of the Word Peace, the other Part of their Title.

Of the *Latin* Word *Pax*, the Normans fram'd their *Paix* (out of that) our Peace; which hath sundry Significations, both in the Holy Scriptures of God, and in the Laws of our Country: For there is an inward and an outward Peace: And this inward Peace is either Good or Evil; first then, there is *Pax apud Deum*, i. e. our Reconciliation made with God the Father, by the Obedience of Christ his Son, our Saviour; for he is *Pax nostra*, and hath appeased the Wrath of God for our Sins: Out of this proceedeth another inward Peace, nam'd the Peace of Conscience; for that our Conscience is (by Faith in Christ)

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at Peace both with God and itself. The Evil inward Peace is that same *Mundane Peace*, whereof our Saviour Christ speaketh, saying; *Pacem do vobis, non quemadmodum Mundus dat*: And this Peace the Kingly Prophet *David* calleth, *Pacem peccatorum*, because it is no better than carnal Security. The outward Peace hath respect to other Men, and that is of two Sorts also; the one is opposed, (or set) against all manner of Striving and Contention, whether it be in Countenance, Gesture, Word, or Work; of which *St. Paul* speaks to the *Romans* in these Words, *Si fieri potest, quantum in vobis est, cum Omnibus Hominibus Pacem habetote*: And in the same Meaning the *Latins*, say, *Pace tua* by your good Leave or Favour, without your Offence or Displeasure. The other is only an Abstinence from actual Force, and offer of Violence, and is rather contrary to *Arma, Prelium, & Bellum* (which cannot be without Force or Arms) than it is to *Lis, Pugna, or Certamen*, which (as *Laurent. Valla* confesseth) may be *Nudis Verbis, & citra Arma*: And hereof also our Saviour Christ speaketh, when he saith, *Non veni ut mitterem Pacem, sed Gladium*.

The Law of our Realm likewise useth the Word Peace diversly, but yet so, as it is altogether occupied about these outward Peaces; for as *Cicero* saith of Frauds; *Aliter Leges, aliter Philosophi tollunt Astutias*; *Leges quatenus Manu tenere Res possunt*; *Philosophi quatenus Ratione & Intelligentia*; even so may I truly affirm, that (in this Matter of Peace) the Law of God (which is the only true Philosophy) respecteth the Mind and Conscience, altho' the Laws of Men do look but to the Body, Hands, and Weapons. Sometimes therefore the Word Peace is taken for Protection or Defence; as where *Bracton* calleth the Writs of Protection, *Brevia de Pace*: Sometimes (as it seemeth to me) it is taken for Rights, Privileges, and Liberties, as in the Oath of the King at his Coronation, he sweareth, *Servare Ecclesie Dei, Cleri, & Populi Pacem ex integro*; the Meaning whereof is, (as I suppose) that he will maintain each Degree and Estate of his Subjects, as well Ecclesiastical as Temporal (for *Populus* there comprehendeth all the Laity) according to their several Customs, Laws and Privileges: And sometimes it is taken for

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for a with-holding (or Abstinence) from that injurious Force and Violence, whereof I spake before; and this is that which is most commonly understood by the Word Peace in our Law; and for the Maintenance hereof, chiefly were these Wardens and Justices of the Peace, first made and authoriz'd. For, Justices of the Peace were not ordain'd (as some have thought) to the End to reduce the People to an universal Unanimity (or Agreement of Minds), which indeed is a Thing rather to be wish'd for than to be hop'd after: Neither is it any Part of their Office, to forbid lawful Suits and Controversies (which nevertheless be Disagreements of Minds), but to suppress injurious Force and Violence, mov'd against the Person of a Man, his Goods, or Possessions. And that this appears to be the Mind of that King, who first created these Wardens or Justices of the Peace, (I mean King *Edward* the 3d) the very Writ that he (in the first Year of his Reign, and not many Weeks before the Parliament, in which the Guardians of the Peace, who afterwards obtain'd the Name of Justices of the Peace, were ordain'd) did send to the Sheriffs of all Shires in *England*, plainly discovers; The Form whereof may be seen in *Hist. Tho. Walsingham*, Pag. 107. By this Writ it is evident, that the Peace which he meant, was not an uniting of Minds, but a restraining of Hands: Which is (in a Manner) all one with that, which *Tully* writeth in his Oration *pro Sextio*, where he setteth *Vis* & *Fus* one against the other; and it agreeth well with that Description and Division of *Vis*, which *Bracton* maketh (*Lib. 4. Cap. 4.*) saying, *Vis est quoties quis (quod sibi deberi putat) non per Judicem reposcit; est autem interdum armata, interdum inermis*; according to which Meaning also, the *Old Stat. Westm. 1. (Cap. 1.)* said, let the Peace of the Land be maintain'd in all Points; and common Right be done to all, as well Poor as Rich; thereupon likewise saith the *Stat. 1. R. 2. Cap. 2.* Let the Peace be well and surely kept, that the King's Subjects may safely go, come and abide according to the Law of the Realm; and that Justice and Right be indifferently ministred to every Subject. Finally, the Statute of 2 R. 2. Cap. 4. 1 H. 4. Cap. 1. and 7 H. 4. Cap. 1. do all (in plain Speech) couple the Maintenance of the Peace with the pursuing of Suits, as Things, that may
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right well stand together. And therefore I conclude, that this furious Gesture, and beastly Force of Hands or Body (and not every Contention, Suit, and Disagreement of Minds) is the proper Subject and Matter, about which the Office of Justices of the Peace is to be exercis'd. Howbeit, I write not this as tho' I would not have a Justice to occupy himself also in pacifying the Suits and Controversies, that do arise amongst his Neighbours: Yea, I wish him to be *Ἐιρηνοποιός*, as well as *Ἐιρηνάρχος*, a Compounder, as a Commissioner of the Peace: And I think him so much the meeter to step in betwixt those that be at Variance, as (by Reason of his Learning, Wisdom, Authority and Wealth) he is like to prevail more by his Mediation and Intreaty, than is another Man. But yet his proper Office in Law, and his common Duty in Charity, being not all one, ought to be distinguish'd, (*Lambard's Eirenarcha*, or *Office of Justice of Peace*, &c.)

Having given the Etymology or Definition of the Name, Justices of the Peace; why they are so call'd; I come now to the second Point propounded, *viz.* the Obligation they lie under from their Oath, to give a Charge to the Juries at their General Quarter-Sessions of the Peace, &c. And of this let's see (first) what *Fitzherbert* says in his Declaration of their Oath.

By this Oath (saith he) it appeareth, that they ought to do all Things appertaining to the Office of Justicers (so he calls them) of the Peace, whereof one Principal Point is, that they keep the Quarter-Sessions at the Days and Places accustom'd, without there be some special Cause or Impediment; and when the Jurors shall be sworn, one of the Justicers shall (mind the Obligatory and enforcing Words shall) give them a Charge, to enquire of all such Articles and Things, whereof they have Authority and ought to enquire; because the Jurors (now he gives Reasons why they should give a Charge) cannot know their Duty otherwise, than by the Charge to them given by the Justicers. And as well as the Jurors be bounden by their Oath to make Enquiry of all Things, wherewith they shall be charg'd; so be the Justicers bounden by Vertue of their Oath, which they take, when they be made, to give them in Charge to enquire of all
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such Articles and Things, which they have Power to determine, and that specially at every General Quarter-Sessions. But at other Private-Sessions, particularly warn'd, it seemeth that they are not bounden to give such general Charge; howbeit, it standeth with good Equity, that the Justicers are not bound at such Privy and Special Sessions, but only to enquire and give in Charge the Articles, and Special Causes for which the Sessions was summon'd and warn'd: Nevertheless, if the Jurors at such Special Sessions find other Matters than be given in Charge, it is good enough; or else if the Justicers at such Privy-Sessions give them a general Charge of all Articles of which they have Authority to enquire, it is good and standeth with the Laws. (So that according to *Fitzherbert*, whose Opinion in this Matter, I heartily concur with; if the Justicers give a general Charge at their Privy or Special Sessions it is consistent with the Laws, and commendable, tho' no Restraint lies upon them so to do; and if they omit to give such an one at every General Quarter-Sessions, they are deficient in their Duty, being bound to give a general Charge there by their Oath.) Notwithstanding inasmuch as the Justicers at the General Quarter-Sessions, are bounden by their Oath to enquire of all Things, touching the good Order and Governance of the Inhabitants of the same County, and for the Punishment of Misdoers and other Offenders, upon whom Authority is given to them by the Laws of the Land, and the Statutes thereof made; it is convenient and necessary, that they at the same Quarter-Sessions shall give in Charge to those Persons, that shall be sworn before them, to enquire of Felons and other Malefactors, and of all other Articles, whereof they are bounden to enquire, so that the Jurors shall not pretend Ignorance, nor excuse themselves for lack of Knowledge of such Things, as to say, that it was not given them in Charge to enquire of any such. (Here *Fitzherbert* lays it down as their indispensable Duty at their General Quarter-Sessions, &c. not only to enquire of such Things as relate to the good Order and Government, or Behaviour of the Inhabitants of the same County, and for the Punishment of Misdoers and other Offenders, but to enquire also of Felons, and other Malefactors, and of all other Things,

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Things, which they are bound by their Oath, the Laws and Statutes of the Realm, to enquire of ; that is to say, they ought to give a general and full Charge to the Jurors at their Quarter-Sessions, &c.) *Fitz-herbert's New Book of Justices of Peace. &c.*

What *Lambard* saith with respect of the Charge is this, (*viz.*)

The Justices of the Peace (saith *M. Fitzherbert*) for their Parts be bound to inform the People ; and (no doubt) the Charge is given, as well to instruct those that be ignorant, lest they offend unawares, as to enquire of those that have already fallen into Danger by Offence, and therefore it is, that many Statutes do expressly command, that they shall be openly read (or declar'd) at the Sessions. I know saith he, that *Mr. Fitzherbert* was of Opinion, that the Justices of Peace ought at their Quarter-Sessions, and might at their Private-Sessions, give in Charge to the Inquest, all such Matters as they have Power to determine : And this he urgeth, as well by the Oath of the Justices, who are sworn to do Right in all Causes within their Commission, or the Statutes, as also by the Ignorance of the Jurors (that ought to hear all) who cannot be informed without this, or some such compendious and plain Way (referring to the Method of the Charge which he had set down just before) that may both shortly for the Time, and lightsomely for the Order comprehend the chief Substance of all that, which belongeth to their Enquiry. For as there be sundry Laws, that do give the Justices of the Peace, a certain special (or particular) Power in them, and do not yet yield unto them any Authority to enquire upon the same ; so also there be divers others, that do afford to the Justices of Peace the Power of hearing and determining, and yet do not expressly give them the Name of Enquiry. And forasmuch, as they may hear and determine of these by Information (given to themselves, and by them recommended to the Jury) it seemeth to me, that they be not so necessarily bound to give them in Charge, but that they be well enough discharg'd, if they be open and ready to receive the Informations and Presentments that shall be offered upon them (*Lambard's Eirenarcha, &c.*)

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And were they to give in Charge only the Articles of their Commission, and those particular Statutes of Enquiry, the Charge would be general and full enough, and being spoken from the Chair, would be more suitable to the Dignity of a judicial Court, and have greater Influence upon the Jurors, than what is (too frequently in some Parts of the Kingdom, and with shame I mention it) read by the Clerk of the Peace; Nay, and that is not done sometimes; for I have seen the Book of Articles deliver'd by the Clerk of the Peace to the Foreman of the Grand-jury (without having been open'd) to be turn'd over and look'd into by him and his Brethren, *ad Libitum*.

(3) Utter Barristers] *Juris Consulti*, are such, who for their long Study, and great Industry bestow'd upon the Knowledge of the Common Law, be call'd from their Contemplation to Practice, and in the Face of the World, to take upon them the Protection of Clients. These in other Countries are call'd *Licentiati in Jure*. The Time before any one ought to be call'd to the Bar by antient Orders, was heretofore eight Years, now reduc'd to seven; and the Exercises done by him (if he were not call'd *ex Gratia*) were twelve grand Moots perform'd in the Inns of Chancery, in the Time of the grand Readings, and twenty-four petty Moots at the Inns of Chancery in the Term-Times, before the Readers of the respective Inns of Chancery (Moot or Moat, in *Latin*, *Mota Curia*, *Placitum*, *Conventus*, is from the *Saxon*, *Gemote Conventus*; which may be deduc'd from the *Saxon* Verb *Motian*, *placitare*. It is a Term well understood in the Inns of Court, to be that exercising or arguing of Cases, which young Students perform at appointed Times, the better to enable them for Practice and Defence of Clients Causes. The Place, where Moot-Cases were argued, were antiently call'd *Moot-Halls*. In the Inns of Court, there is a Bailiff or Surveyor of the Moots, yearly chosen by the Bench, to appoint the Moot-Men for the Inns of Chancery, and to keep account of the Performance of Exercises both there and in the House. (See *Orig. Juridiciales*, Fol. 212.) A Barrister newly call'd, is to attend the six next long Vacations, the Exercise of the House, *viz.* in Lent and Summer, and is therefore, for

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for those three Years call'd a Vacation Barrister: And they are call'd *Utter Barristers*, (*i. e.*) Pleaders, without the Bar, to distinguish them from Benchers, or those, who have been Readers, who are sometimes admitted to plead within the Bar, as the King, Queen or Princes Council are. (*Cowel's Interp.*)

(4) *Walsingham*] Sir *Francis*, of the flourishing Family of *Chiselhurst* in *Kent*, was Educated in King's College in *Cambridge*, and afterwards travell'd into Foreign Countries, where he made such an Improvement of his Parts, that at his Return Home he was made Queen *Elizabeth's* Secretary of State, which he discharg'd with a quick Apprehension, a solid Judgment, and insinuating and reserv'd Converse, the necessary Qualifications of a Statesman. To sum up his Character, He was a Man more skilful in the Politicks than in the Oeconomicks; more cunning in managing Matters of the publick State, than of his own private Estate, which he left so mean, and died so much indebted, that he was fain to be buried by Night, without any Funeral Pomp, in the Cathedral Church of *St. Paul*; leaving behind him one only Daughter, famous for her three Husbands; All of them the goodliest Men of their Time; the first was Sir *Philip Sidney*; the second *Robert* Earl of *Essex*; and the third *Richard Brugh* Earl of *Clanriccard*, by King *Charles* made Earl of *St. Albans*. In short, he was an excellent Statesman for his Country's Good, not his own private Ends; and a great Underminer of Conspiracies. He dy'd in 1590, leaving to Posterity extraordinary Books of Politicks.

(5) *Brit. Lat. Edit. Octavo p. 106.*

(6) *Hotman*] *Francis*, born at *Paris*, Son of *Peter Hotman*, Counsellor in the Parliament of *Paris*; was so famous a Lawyer, that he became *Cujavius's* Rival. He wrote many Books, which were highly approv'd; and at the Time of *St. Bartholomew's* Massacre, he being a Protestant, was forc'd to retire to *Bazil* in *Germany*, where he died in 1591. Aged 65.

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To these may specially be join'd, if not preferr'd, such as proceed Doctors of Divinity, or of other Professions in the Universities (1); for Doctorship (2), is a Title of Dignity, more Noble than they who are Gentlemen but by their Stock only: To whom also, according to our Custom, so much Preheminence is given in the King's Commissions concerning the Publick Affairs, as that they may well seem in Dignity to be compar'd with Knights. In the King's House also, the Apparitors, commonly call'd Serjeants at Arms, Heralds, and all serving in the King's Court, whom for the Preheminence of their Offices we also call Serjeants, are made Esquires with Chains, viz. with a Collar made of Silver and black S's put about their Necks by the Kings themselves.

Now

(1) *Universities*] *Universitates* are most usually taken for those two Bodies, which are the Nurseries of Learning and Liberal Sciences in this Kingdom, viz. *Oxford* and *Cambridge*, endow'd with great Privileges, as appears not only by *Anno 2 Edw. 3 P. Edw. M. Cap. 15. 13 Eliz. Cap. 21. 18 Eliz. Cap. 6.* but much more by their several Charters granted by divers Pious and munificent Kings of this Land, See *14 Car. 2. Cap. 4. (Cowel's Interp.)*

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(2) *Doctorship*] is a Dignity bestow'd in Universities upon learned Men, who having perform'd all the Acts take their Degree solemnly. *Rhenanus, in Prasat. in Tertull.* saith, That about 1140, those that did publickly read the Book of *Peter Lombard* the Bishop of *Paris* (his Sentences) began to be call'd Doctors. In *England*, the Doctor's Name, or Degree, was first known in *K. John's* Reign, about 1207, and by a Decree of the University of *Oxford*, 1284, the Doctors of Physick got Preheminence above the Doctors of Law, in *Richard's* Reign. In *Germany*, the Title of Doctor was distinguish'd from that of Master, 1135, in the Emperor *Lothaire's* Reign. (*Spelman Glossar. Arch.*)

Doctor pro eo qui hoc Gradu in Academia insignitur. Plus de hoc videndum est infra in Magistro. B. Rhenan. in suis ad Tertull. in Prasat. ad lectorem dicit, quod cum liber Sententiarum Petri Lombardi, Epif. Parisiens. primum ederetur (Annum scil. circiter 1140) Hi qui eum publice legebant, Doctores primum Appellati sunt: Mire autem cacutiunt qui S. Bedam, primum Cantabrigie Doctorem, & S. Joh. Beverlacensem, qui obiit An. Dom. 721. Oxonii primum suggerunt. Descript. Anglie, pag. 150. b. Quod Doctores Medicinalis Scientie sunt preferendi Doctoribus juris civilis ubilibet, & presertim in Universitate, apparet per Mandatum Regis Ricardi apud Westm. 16 die Jan. An. Regni sui octavo ex Lib. Stat. Universitatis Oxon.

Magister) Reverendum Honorem sumit, quisq; Magistri nomen acceperit, quia hoc vocabulum semper de Peritia venit, & in nomine Cognoscitur, quid sit de moribus aestimandum; His tribui solet, qui vel Classi, Societati, muneris prasunt; vel in Scientia aliqua presertim literaria eminentia gradum consecuti sunt. Gloss. ad Clem. Lib. 5. Lit. 2. Cap. 2. de Magistris, ait, quod quidam dicunt, quod Doctores in jure Canonica vel civili Magistri dicuntur in Theologia vel Artibus: & (secundum Hostiens.) qui septem docet Liberales Artes; sicq; recipi apud Italos. Sed Ultramontani communiter (inquit.) vocant Magistros. Videntur & in Textu ibidem ipso Clemens 5. totumq; nienense Concilium Magistri & Doctoris vocabula confund. re. Ad coercendum enim ingentem Doctoratus seu Magisterii ineundi

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incundi sumptum, cavent, ut dictum recipientes Honorem, juramento prius astringant, ne ultra tria millia Turonens. argenteorum (quæ in Bononiensi Moneta ascendunt ad quingentas libras Bononenorum parvorum) in Solennitate circa hujusmodi doctoratum aut Magisterium quomodolibet adhibenda, expendant. En quantus hic sumptus cum in aliis, tum in Oxoniensi nostra Academia (nam & de ea nominalim illic cavebatur) ævo scil. Regis Edouardi 1. & usitationem tunc fuisse apud nostrates Magistri Titulum, quam Doctoris, suadent Treveli Annales MS. sub Anno 1294. i. e. 23 Edw. 1. Antiquius etiam (puta sub Henrico 3.) in hanc sonare videtur Sententiam Matthæi Paris illud in An. 1267. ubi ait, Magistros Oxonia ad Parliamentum venisse, ut Pax reformaretur, &c.

Tempore vero Lotharii Imp. differentia Doctorum & Magistrorum exorta est, cum & circa ipsum Tempus Ars Typographica Moguntii inventa esset a Gonsbergio, ut refert Stephanus Pomeranus JC. Lib. 3. Par. 2. Cap. 4. Qui & Doctores omnes sub Magistris antea contineri memorat. Opinatur deniq; Alcizus ad L. cui præcipua, de verbor. Sign. 57. generali Magistri Appellatione contineri Baccalarios, Licentiatos, Doctores; sed quales ille in jure Civili Licentiatos vocat, nos in nostris Academiis in aliis Facultatibus Magistros Artium Nuncupamus.

De Magistri in Theologia (quem hodie Doctorem Appellamus) Institutione, Concionator quidam circa ætatem Henrici 6. vel Edouardi 4. (ut MS. Codicis suggerit intuitus) in Sermone quodam super illum Psalmi 29. v. 11. quæ utilitas in sanguine meo? sic effatur.

Reverendissimi, sicut noverunt homines Scholæ qui fuerunt Oxonia vel Cantabrigia, quando Magister in Theologia debet incipere, ponitur primo in Cathedra, & tunc ponitur Pileus super Caput ejus; deinde leget unam lectionem, & post lectionem lectam, disputabit unam Questionem; vid. Lindewode in Notis ad Tit. de Magistris. Cap. 1. Sect. 1. & vide Authent. Lib. 10. Tit. de Professorib. &c. cum notis Ibidem. Sed innotuisse videtur Doctoris Nomen & Gradus apud Nostrates sub Ævo Regis Joannis, (Mat. Paris) Innocentius enim Papa 3. ad eum scribens An. 1207. in Causa Stephani Langton, Archiepiscopi Cantuariæ, sic alloquitur. Illud, ei (scil. Stephano) non esse imputandum ad culpam sed ad Gloriam potius adscribendum,

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dum, quod Parisiis diu vacans liberalibus Studiis, in tantum profecit, ut meruerit esse Doctor, non solum in liberalibus Facultatibus, verum & in Theologicis Disciplinis. Sed cum hac ad Academicos praesertim spectent, rimentur ipsi omnia ex Archivis suis (Spelm. Gloss.)

(1) I shall

Those whom the *French* simply call *Gentilz-hommes*, and we in *English*, Gentlemen (1), are with us distinguish'd into three Classes, viz.

1. He, who deriveth his Stock with Arms from his Ancestors, is by Blood a Gentleman.
2. He, who beareth Arms only, altho' he be not yet by Stock a Gentleman, is nevertheless call'd a Gentleman, and giveth Gentility to his Sons.
3. He, who is of Reputation only for his Learning, or for some Office or Function which he beareth, is for himself only in common Estimation accounted a Gentleman, tho' he had a common Person for his Father, and leave his Sons common Persons also. There is small Difference between an Esquire and a Gentleman; for every Esquire is a Gentleman, and every Gentleman is *Arma gerens*. (2)

Now
(1) I

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(1) *Gentlemen*] I shall make use of three Authors, *viz.* *Verstegan*, *Selden*, and *Cowel*, to explain this Title. *Verstegan* comes in the Front, whose Words are, *viz.*

Our Modern Name of Gentleman is not rightly either *English* or *French*, but compos'd and made up of two distinct Languages. For, as elsewhere I have shew'd, our antient Word *Edel* signifieth Noble or Gentle; and were it *Edelman*, it were a meer Teutonick Word, and anciently our own; and if on the other Side, it were *Gentilhomme*, then were it *French*; but now we take Gentle from the *French* (tho' a little alter'd) and add unto it Man, which we have of our own, and so composing them together, make it Gentleman. This manner of Speech-mixing hath happen'd upon the *Norman* Conquest, and, in some other Words now to be found in our Language is very absurd and ridiculous; but for Brevity, and as being here Impertinent, I will pass them over. (*Repetition of decay'd Intelligence.*)

Selden (whom I have plac'd in the middle between *Verstegan* and *Cowel*) saith thus of this Title, *viz.*

The Title of Gentleman (as we use it absolutely in common Speech, when we attribute it to any Man, to whom it belongs in the largest Acceptation, in any of those Countries, whose subordinate Titles are before severally deliver'd) denotes one, that either from the Blood of his Ancestors, or the Favour of his Sovereign, or of them that have Power of Sovereignty in them, or from his own Vertue, Employment, or otherwise, according to the Laws and Customs of Honour, prevailing in several Countries, is Ennobled, made Gentle, or so rais'd to an Eminency above the Multitude, perpetually inherent in his Person, that by those Laws and Customs he be truly *Nobilis*, or Noble, whether he have any of the precedent Titles or not fix'd besides on him. Understand *Nobilis* here in that Sense, as it hath been frequently us'd since the declining Times, especially of the *Roman* Monarchy, as well for one that is by Letters Patents of the Emperor or otherwise made *Nobilis*, as for him that is by Birth so. For

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the antient use of *Nobilis*, especially before the Monarchy, was such, that it was justly given to none but him, that had *jus Imaginum*, or some Ancestor, at least, that had born some of their greater Offices, or their *Magistratus Curules*, as Censorship, Consulship, and some such more, from whose Image kept, he had the *jus Imaginum*. The first Ancestor, upon whose Death this Nobility or Gentry began, was call'd *novus Homo* only, being before his Offices (that gave him the Title of *Novus*) only *Ignobilis*, as the rest of the Multitude. But some Ages after the *Romans* were under a Monarchy, the Title of *Nobilis* was given also to such, as by the Emperor's Patents of Offices, or their *Codicilli Honorarii*, were first rais'd out of the lowest Rank. And in this Sense hath *Nobilis* since been continu'd, and so we here use it.

That other Notion of Noble, which we use in *England*, when we express our Lords by Noblemen absolutely (33 *H. 8. Cap. 28, in titulo Capitis*) is peculiar to us only, and belongs not at all to this Place. Neither will we trouble it further with other Notions of *Nobilis*, that express not the Dignity we handle here; nor add more of the common Distinction of Nobility into that which is Theological or Christian, Philosophical or from Manners or Vertue, and Political or Civil, than that we speak here only of Civil Nobility or Gentry.

This consists in some Countries in enjoying divers Privileges both Personal and Real, as well as, or more than in the Eminency of Dignity whereunto the Gentleman by his Birth or Quality is rais'd, as in the *Empire*, *France*, *Spain*, in some, chiefly in Eminency of Dignity. And it is in all, either deriv'd from Noble or Gentle Ancestors, or otherwise, according to the divers Laws and Customs of Honour, newly acquir'd; The ways of Acquisition of it are very various according to those Laws and Customs, and are variously disputed by the many Writers that have publish'd whole Volumes *de Nobilitate*, or with the like Titles. After that Arms also, or the Ensigns of Distinction born upon Shields, grew to be in many Families Hereditary (which was about 400 Years since) it came into frequent Use, that he, who was either formerly ennobled by Blood, or newly by Acquisition, either assum'd, or had by Grant (as his Case, and the Custom of his Country permitted)

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permitted) from his Sovereign, or some other lawfully exercising Sovereign Power, some special Note of Distinction by Arms, also to be transmitted with his Gentry to his Posterity. And a common Use of giving Arms together with Gentry or in Charters of Ennoblishment (as the *French* call it) hath continu'd to this Day, altho' to all that have been ennobled, it hath not been us'd. But before such Time, as Arms were Hereditary, all Gentlemen, it seems, in these Nations of *Europe* that have been States of themselves, bred out of the declining of the Empire and out of the Irruptions of those of the North, were suppos'd to have their Shields distinguish'd by some Arms of their own Fancy, that so they might be known one from another in the Field, in such Sort, as *Vegetius* says (*de Re Militari Lib. 2. Cap. 18.*) in the antient Empire the Soldiers were distinguish'd by the *Digmata* or Devices of their Companies, and by their own Names express'd on their Shields. And thus in the Customs of *Europe* (which for the most part came immediately from those Northern Nations, that about the declining of the Empire planted themselves almost throughout it) the Right of having Arms hath been from ancient Time an Ensign of Gentry, and that almost as the Right of having Images was in the old *Roman* State.

Those warlike Nations, and the rest with whom they are mix'd in *Europe*, so esteem'd the noble Office of a Soldier, and were so much all Soldiers, that from what belong'd to the Wars only, rather than from any Thing else, they would take the Ensigns of Gentry; whence also *Miles*, *Chevalier*, *Cavaliero*, and *Escuyer* also, or *Scutarius*, or *Armiger*, all being Names fram'd first as proper for the Wars, are us'd sometimes in a Notion that means only a Gentleman, as may be observ'd out of what is already deliver'd touching them. Thence it is also, that Arms have been given usually to an ennobled Person, tho' of the long Robe, wherein he hath little use of them as they mean a Shield. But being a Gentleman, he is suppos'd also either to be a Soldier, or ready upon Occasion to be one, and therefore hath that Ensign to denote him. The same may be said of Crests. But for Arms and Crests, the several ways of ennobling by Feuds, by Employment, by

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Degrees in Learning, or the like, according to the Laws of several Countries, and the great Harvest of other Particulars touching Gentry; the Store of former Writers is so great of them, that we have singled out for this Place only these two Heads touching them: One of the several Names, by which Gentlemen or *Nobiles* are in the most Parts of *Europe* styl'd, and especially of the Original of the Name Gentleman and *Gentilhomme*, and the like; the other of the Instruments or Charters by which Gentry hath been given. For by those we suppose, we shall make some estimable Addition to what others have done, that have herein gone before us.

In the *German* Empire *Nobiles* or Gentlemen (we suppose Gentlemen still in our *English* use of it convertible with *Nobiles*) are sometimes express'd by *diefreyedom Adel*, or *diefreye Adeliche Reicks Riterchafft*, that is the Free Gentlemen, or *Ordo Equestris* (as they are call'd also) of the Empire. Which means only those Gentlemen that are immediately subject to the Emperor in *Franchen*, *Schwaben*, and *Rheinlander*, or some Parts belonging to these. Their Privileges of being free from Taxes, being Subject to no other Court but the Emperor's, and such like, make them of a singular Eminency. Other Gentlemen there, whether mediate or immediate to the Emperor, are call'd *Edelmen*; in both the word *Adel*, (whence also with some variance of Dialect the *Danes* and *Suetbes* call their Gentlemen) or *Edel* denotes *Nobilis*, whence *Edeldom* and *Edelheit* are *Nobilitas*, and *Ueredelen*, and *Edelmacken*, to ennoble. From the same Word was that *Edilingi*, for *Nobiles* among the *Saxons* in *Germany*, made in *Nithardus* (*Lib. 4.*) and *Adalingus* in the same Sense is in the old Laws of some Parts of *Germany*, (*Leg. Angliorum, Tit. 1, 2, 3, and 4.*) And our *English Saxons* also call'd their Gentlemen *Athelum*, speaking but a Dialect of the old *Dutch*. In *Poland* they call their *Nobiles* *Szchlaſa*, as we see frequently in their Laws. But in the most other Parts of *Europe*, the very Name of Gentleman express'd in the several Provincial Languages is us'd, as *Gentilhomme*, *Gentiluomo*, and *Gentilhomme* with the *Spaniards*, who also have that other Title for a Gentleman, which they call *Hidalgo*, whereof more by and by. The Reason of the whole Name, in every Country

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where it is us'd, will appear clearly, if we know how *Gentil* came to it; And it is not likely but that upon the self same Ground and Original, it came into all Places that have receiv'd it. There be two special Opinions concerning the Original and Cause of the Use of *Gentil* in this Sense. Some that are earnestly willing to derive all into the Provincial Tongues especially (of which this Word is) from the purer Times of the *Latins*, fetch it from *Gentiles*, as *Gentiles* was us'd before the *Roman* Monarchy began. It signified such, as were of the same Name and Stock, Free-born retaining their *Roman* Liberty, and whose Ancestors were always Free. And *Cicero* calls *Tullius Hostilius Gentilem suum*, only for Name's sake, (*Tusc. quaest. Lib. 1.*) *Festus* also; *Gentilis dicitur & ex eodem Genere ortus, & is, qui simili nomine Appellatur (de verb. Signif. verb. Gentilis)*; to which purpose he cites this of *Ciricius*; *Gentiles mihi sunt, qui meo nomine appellantur*. And *Cicero*, speaking of Arguments drawn from Definitions, and shewing how they should be made, brings this for an Example; *Itemq; ut illud, Gentiles sunt qui inter se eodem nomine sunt; non est satis. Qui ab Ingenuis oriundi sunt; ne id quidem satis est: Quorum majorum nemo servitutem servivit: Absit etiam nunc, qui Capite non sunt dimnuti. Hoc fortasse satis est. Nihil enim video Scævolam Pontificem ad hanc definitionem addidisse.* The Relation thus made between Men was call'd *Gentilitas*, as we see in *Varro*. *Ut in Hominibus (saith he, de Lingua Latina, Lib. 7.) quædam sunt cognationes & Gentilitates, sic in verbis. Ut enim ab Emilio homines orti Emilii ac Gentiles, sic ab Emilii nomine declinantes voces in Gentilitate nominantur.* In the same Sense he hath *Gentiles* in that Phrase of the twelve Tables, which he uses Proverbially, where he speaks of the Care of having a Country-Seat Healthful and Fruitful. *An non horum (says he, de Re Rustica, Lib. 1. Cap. 2.) si alterutrum decollat, & nihilominus quis vult colere, mente est captus atque ad Agnatos & Gentiles est deducendus?* For such as were mad by the Law of the twelve Tables, were to be committed to their *Agnati & Gentiles*, or to the next of their Kin and Name. They that were *Gentiles* (every of them being singularly *Gentilis*) were collectively also call'd *Gens*, which was so distinguish'd from *Familia*, that the Sur-

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names denoted the *Familia*, and the Names only the *Gens*. As the *Gens Aelia* extended to as many as had the Name of *Aelius*; but the Families of that *Gens* were distinguish'd by the Surnames of *Lamia*, *Patus*, and the like; whence it is, that *Festus* says, *Gens Aelia appellatur, quae ex multis Familiis conficitur*. And in this Sense *Horace* hath *sine Gente*, for one that is a Slave, or at least had *Servile* Ancestors; for such had not *Gentem*, nor were called *Gentiles*, one to the other.

Qui quamvis perjurus erit sine gente Cruentus. (*Serm. 2. Sat. 5.*) Now because *Gentiles* thus denoted Men only that were *Ingenui*, and of one Name and Stock, and that such, as were *Servi* or *Capite diminuti* (as Banish'd Men, or otherwise capitally Condemn'd) were excluded from having *Gentem*, or the Title of *Gentiles* among them, therefore it hath been conceiv'd that *Gentilman* or *Gentilhomme* hath been us'd in the Provincial Tongues, as if it should literally express one that were *Nobilis ab Origine Gentis*, or ennobled by his Stock. In which Sense we see the Name of Gentleman (in an Acceptation according to this Original only) should signify one only that were ennobled by Blood, as *Nobilis* did in the more antient Times at *Rome*, or as *Generosus* (which is frequently us'd for Gentleman) out of its own Notation doth. For *Generosus* in its Primary and most us'd Acceptation is, *Qui bono genere ortus*, or one, that being born of worthy Parents, is by Kind also like them. In which Sense it is applied also to Beasts, Trees, Fruits, and other Things, when they are commended for their Quality with reference to the Stock from whence they come. The Examples were obvious. But when it is spoken according to the antient Sense, of a Gentleman, it expresses more his own Personal Worth, than the Dignity of his Ancestors, tho' it suppose both. No otherwise than as the Greek *Γενναῖος*, which signifies the self same. To this Purpose *Aristotle*; The being Noble (saith he, *Rhetoric. ad Theod. Lib. 2. Cap. 15.*) in that more ancient Sense of Noble, is by Vertue of Ancestors or the Stock, but the being Generous is not to degenerate from the Birth, which very often happens not to those, that are Noble, but many of them are of no Estimation. For as in the Fruits of Soil, so in the Generations of Men, there is a frequent Change from the Original; from a
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good Stock, for some time, excellent Men are propagated, and then the Posterity often Degenerates, as he Notes there.

The Dutch have a good Word for *Generosus*, *Wellgiboren*, or well-born; and in an antient *Latin-Saxon Glossary*, *Generositas*, is interpreted by a *Saxon* Word, denoting, Noble Birth. Tho' also vulgar Use now hath so alter'd the genuine Sense of *Generosus*, that it frequently denotes any kind of Gentleman, either by Birth or otherwise truly enjoying that Name, as well as *Nobilis*. But it was long before the constant Use of *Generosus* was with us, for the Title of Gentleman in our Writs, Counts, Pleadings, and such like, till about *Henry* the 8th, the very Word Gentleman was often retain'd for the Addition in the Latin, as we see in the Rolls of the precedent Times. But then *Generosus* came to be constantly with us us'd for a Gentleman of what Sort soever, if his Title were no greater. And plainly we see some Steps of such an Use of *γενναῖος*, (which is but the same) in that old Proverb, *You are Generosus even by your Purse* (*Suidas in Verb. γενναῖος*,) spoken of such as were Rich, and therefore would seem Noble also.

The other special Opinion touching the Original of the Word Gentleman, is, That it came from the Word *Gentilis* us'd in a most different Notion about the declining of the Empire, and afterwards; that is, for one that is no *Roman*; but of some of those other Nations, that had made Irruptions into the Empire, and in a manner destroy'd it; For the Understanding this Opinion, we shall first shew that Use of the Word *Gentilis*, and the Original of that Use, and then how it might thence come to be us'd for *Nobilis*.

Besides the common Notion of *Gentes* (whence *Gentilis* is made), wherein it signifies Nations, or all Men indefinitely, as it doth in *jus Gentium* from antient Time to this Day, there was another Notion of it in the declining Times, restrain'd only to such Nations as were not *Roman*; no otherwise than as anciently *Barbari* was us'd first for all besides *Grecians*, and therefore all except them and *Romans*, as may be seen in *Claudian de Bello Gothico*. In the same Sense *Justinian*, (*Tit. de Officio mag. Militum, Lib. 5.*) And as *Gentes* thus collectively denoted them,

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them, so every of them were call'd *Gentilis*, and all plurally *Gentiles*, and *Barbari* also, and the *Romans*, that liv'd among them, *Provinciales*. The fullest Testimony of this is a Law of *Valentinian* and *Valens*, *de Nuptiis Gentilium*, forbidding that any *Roman* or Provincial Woman should marry a *Gentilis*; or that any Provincial Man should take a Wife of that kind, or *uxor Barbara*, as they call'd her. The Words of the Law are, *Nulli Provincialium, cujuscunque ordinis aut loci fuerit, cum Barbara sit Uxore conjugum, nec ulli Gentilium Provincialis Fœmina copuletur. Quod si qua inter Provinciales atque Gentiles Affinitates ex hujusmodi nuptiis extiterint, quod in iis suspectum vel noxium detegatur (hæc vera lectio; uti ex MS. discimus, sed in vulgatis libris quibus utimur, male susceptum & detegatur legimus) capitaliter expietur. Datum 5 Kal. Jun. Valent. & Valente Coss. (Theodos. Lib. 3. Tit. 14.)* Elsewhere also in *Theodosius's Code*, the same Use is of *Gentiles* (*Lib. II. Tit. 23. de Appellationibus. L. 62.*) But the Original of this Use is to be deduc'd from the ancientest Times; and that from among the *Jews*, thro' the *Greeks*, into the *Latin* Christians. For before Christianity, and the Idiotism of Christian Language receiv'd into *Latin*, this Use of it was not in the Empire. The *Jews* so us'd their Word *Gojim* (which signifies *Gentes*) absolutely spoken, for other Nations according to the subject Matter, that they excluded themselves, and comprehended others only in it. In that Sense we have it in *Moses*, where he says (*Genes. Cap. 10. 2.*) that the Posterity of *Japhet* divided the Isles of the Nations, or (as the *Hebrew*) *Jii Hagoojim*, which is the same. Thus it is us'd very frequently in the Old Testament in those Passages, where *גוים*, *Gentes*, or the Nations occur. And thence it is also that the *Rabbins* have the singular of it *Goi*, for a Man of any other Nation, than of *Israel* or a *Jew*, (saith *Elias Levita*) every Man that is not an *Israelite* they call *Goi*, as if you should say, he is of another Nation. And if it be a Woman, they call her *Goiah*. From that Use of *Gojim* in *Hebrew*, *גוים* (which among those of the purer Times of the *Greeks*, that wrote in *Greek*, signifies as *Gentes* did in the purer Times of the *Latin*) was in like Sense us'd in the *Greek* Translations of the Old Testament instead of it:

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Thence it is also that we have *ῥὰ ἔθνη* in that Notion so frequently us'd in the New Testament: All these Things (saith our Saviour, *Matth. Cap. 6. 32. and Luc. Cap. 12. 40.* instructing the *Jews*) the Nations or the Gentiles seek. And so *ῥὰ ἔθνη* signifies most frequently in the *Acts* of the Apostles (*Act. Apost. Cap. 18. 16. Ad Rom. Cap. 1. 5, 6, &c.*) and the Canonical Epistles; whence also the *Latins* in the Idiotism of Christianity, at first us'd their Word *Gentes* for the self same, which our *English* most commonly turns *Gentils* (especially in the New Testament), but the *French* *Payens* for *Pagans*, and the *Dutch* *Heyden* or *Heydenen*, which is but our Heathen. But in the Primitive Times both *ῥὰ ἔθνη* and *Gentes* soon got another Signification, and meant not all such as were not *Jews*, as in the Old and New Testament, but those only which were neither *Jews* nor Christians, but follow'd the Superstitions of the *Agyptians*, *Greeks*, *Romans*, and such more. So as the *Jews* us'd the Word Nations or *Gojim* for all People besides themselves, so the Christians *ῥὰ ἔθνη* and *Gentes* for all People besides themselves and the *Jews*. But as *Gentes* and *ῥὰ ἔθνη* were us'd by the Christians in such a Sense, that excluded all Nations, but themselves and *Jews* by it, as the *Jews* before had done all Nations whatsoever but themselves; so after the Word *Gentes*, and the conjugate *Gentilis* were receiv'd into the Christian State of the Empire, they both had another kind of Signification, and from this Original, from whence we now deduce them, it seems a double one. When they were us'd in Treatises or Laws that concern'd Matter of Religion, then they denoted such as were *Pagans*; or, being not *Jews*, were no Christians. But when they wrote meerly of Civil Government, without Relation to Point of Religion in Laws or otherwise, then they us'd *Gentes* & *Gentiles* (proportionable as the *Jews* anciently did their *Gojim*, and as the Christians their *ῥὰ ἔθνη*, and *Gentes*) for all such as were not *Romans*, that is, for those that were not of the *Roman* Empire, or of the *Orbis Romanus*. For all of the *Orbis Romanus*, were *Cives Romani* by that old Constitution of *Antoninus Pius* (*de Statu. Hom. L. 17. 67. Novell. 78. Cap. 5, 6.*) and the rest were now call'd *Gentes* or *Gentiles*, as well as *Barbari*, which Word came among the *Romans* in a like Sort also, as this Use of

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Gentes and *Gentiles* did. For all save the *Greeks*, were first call'd *Barbari*, (and so *St. Paul*, *ad Rom. Cap. i.* also uses it) and afterwards the *Romans* stil'd all *Barbari*, save themselves and the *Greeks*.

The Use of *Gentes* in matter of Religion, is obvious in the Fathers, and of *Gentiles*, only for such as were not Christians, in the Law of *Honorius* and *Theodosius* concerning Religion. (*C. Theod. Lib. 16. Tit. 5. de Hereticis. Lib. 49. § L. 45, &c.*) And from this Notion of *Gentiles* we have *Professiones Gentilitia* in another of their Laws. (*eisdem Lib. § Tit. 1. 10.*) But in Laws of Civil Government only, *Gentilis* is used in that other Sense for such as were not *Romans*, or as opposed to all that were *Romans* and *Provinciales*, which to this Purpose were of equal Condition, as the Laws before cited hint. There *Provinciales* is opposed against *Gentiles*, which in the Body of the Law, is as a *Synonymie* to *Barbari*; and the like kind of different Notions we see in other Words. *Chaldeus*, where the Discourse is of Predictions, often signifies an Astrologer. But in Geographers, Historians, and such like that speak of State, Story, or Situation of Countries, it denotes only one of the Country of *Chaldea*. So *Hellen* and *Hellenismus* in the old Story of the Church, and some Fathers signify as much as a *Gentile*, and *Gentilisme*, (in such Sense as either of those are opposed to Christianity); but in others, that use not the Words in Relation to Religion (even in the same Time, where that Notion of them is found frequent) they mean only *Grecians*, or what hath reference to *Greece*, as it is a peculiar Country. The like may be said of the Name of a *Jew*. The Notions of the Word *Gentilis* being thus deduc'd and stated, they that are of this other Opinion touching the Original of *Gentle* or *Gentil* in Gentleman, conceive that those Northern Nations in their framing of Words out of the *Latin*, (which they found in the Provinces where they seated themselves) to make up their Provincial or *Roman* Tongues, (as the *Goths* and *Vandals* in *Spain*, the *Spanish*; *Goths*, *Salians* and some such more in *Gaul*, the *French*; and the *Goths* also and *Longobards* in *Italy*, the *Italian*,) so esteemed of the Word *Gentilis*, by which they found themselves stil'd in the *Latin*, that they now made it in those Tongues a Distinction or Note
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of Honour for such of them, as were of the more eminent Quality, or in Truth *Nobiles*, and were, it seems, ambitious to be thus honour'd by that very Name, by which the *Romans* had before with some scorn so express'd them. And that especially, because all being in those Parts, after the Irruptions of those Nations, either *Gentiles* or *Romani*; the *Romans*, (if you consider them, that were Subjects of the Empire) were generally in a far worse Condition in Regard of Subjection, Tribute and the like, than any Subjects, that were not as Slaves to the better Sort, among those other Nations. And therefore the better Sort of those Nations, to express their Liberty perhaps, which was dearest to them, and so much differ'd from that of the *Romans*, were the forwarder also to use that very Word, which so properly distinguish'd them from the *Romans*; for they thought not *Barbarus* to be more disgraceful, than *Plautus* did, when he call'd *Naius, Barbarus*, or speaking of his *Asinaria*, says, that *Demophylus scripsit Marcus vertit Barbare*. For in *Plautus's* Time *Barbarus* in *Rome*, signified any that was not a *Grecian*, as it was now taken by these Nations we speak of, for any among them that was not a *Roman*. And it was nothing stranger, that *Gentilis* from that more general Signification should come to this restrain'd Notion in the Provincial Tongues, than that *Dux, Comes, Baro, Miles, Scutarius*, and such more, being all of a very large Sense, should so come to denote particular Dignities, both in the *Latin* of the middle Times, and in the Provincial Languages, being but varied according to the Provincial Idiotisms. *Nobilis* it self also in *Latin* was, and is very large, and hath been by a like kind of Use, restrain'd also in another Notion to that, which we call a Gentleman.

Of these two Opinions touching the Name of Gentleman, I incline most to the Latter; for they of the first, who would have it from the more antient and purer Word *Gentilis*, seem to forget that, which especially should have been thought on in the Disquisition; that is, that the Word *Gentilhomme*, having been begun in the Provincial Tongues out of the *Latin* should most likely come from such a *Latin* Word, as was then in familiar use, and from such a Sense of that Word, as was in like use also. But *Gentilis* in that ancient Sense, will not, I think, be found

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a very usual Word, neither about the Time, that these Provincial Tongues began, nor since. Other Reasons might be given against it, but that later Opinion is more like to Truth, both by Reason of what we find in the Stories of the Times, wherein those Northern Nations planted themselves in the Parts of the Empire, as also of what continues in most of the Parts, where the Word Gentleman is us'd, from those Times till this Day. For the Stories, the Occurrences are many, wherein both the Liberty and professed Purpose of Maintenance of that Liberty by the eminent Persons of those Nations, and the great Estimation of themselves and their Associates (or of them that were *Gentiles*) above the Name of *Romans*, whose Subjection according to the Imperial Laws, they esteem'd a Servitude unworthy of their own Dignity; therefore they rebell'd and slew some of their own Princes, only because they would have brought them either into the State of the *Romans*, or under the Subjection of the Empire. The Examples are in that of *Theodatus* especially, *Ataulfus*, and *Sigericus*, all Kings of the *Goths* and slain, because they endeavour'd some such Thing. Nay, *Ataulfus* according to the Mind of his free Subjects, had resolv'd to have utterly extinguish'd the Name of the *Romans*, and have call'd it the *Gothick* Empire, and so they used the Word *Gothia* instead of *Romania*, and the Name of *Ataulfus*, for *Cæsar Augustus*: But he observ'd the Liberty claim'd by his *Goths*, and the rest of the like Nations with them, was such, as that he could not so hope enough quietly to govern them; and therefore he alter'd his Resolution, chiefly by the Perswasion of his Queen *Placidia*, a *Roman* Lady and Daughter to *Theodosius* the first, and endeavour'd to restore the Dignities of the *Romans*, and of their Laws in his Government, and to be *Romane Restitutionis Auctor postquam esse non poterat Immutator*, as *Orosius* (*contra Paganos. Lib. 7. Cap. 43.*) says of him: But when this Purpose was discover'd, he was soon murder'd as an Enemy to their National Liberty, which was so great also, that divers of the *Romans* chose rather to be of their Condition, tho' Poor, only for their Liberties Sake, than to live as *Romans*, or under the Empire in such a wealthy Subjection, that was so toward a Servitude. It may be hence collected

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collected, that those Nations were all willing enough to distinguish their Men of any Eminency, by a general Name in their Provincial Tongues, which might most fully deny them to be *Romans*. And nothing could better do that than *Gentiles*, which then was so used for such as were not *Romans*; and so for these Nations (principally in Expediting of Civil Business) also as distinguished from *Romans*: Of whom yet as many as liv'd in such Eminence, with the *Gentiles*, as themselves did, retain'd still the Stile of *Nobiles* in their *Latin*, tho' they were afterward known also in their Provincial Tongues by the Name of *Gentil-hommes*, or the like, because out of those Reasons before shew'd, *Gentil-hommes* was become to be a Provincial Word for *Nobiles*.

Now for what continues to this Day, and seems at least to give Light here; observe the principal Privileges belonging to Gentry in most of those Places, where the Word *Gentil-homme*, and the like is us'd; and the Name also of *Hidalgo*, which is a Gentleman in *Spain*, both which may add Strength to that Conjecture. The principal Privileges at this Day, consist in being free from such Tribute and Taxes, as the *Romans* were in those elder Times subject unto, and the Chief of the *Gentiles*, or not *Romans*, or those other Nations, that so dispersed themselves in the Empire, were out of their national Liberty discharg'd of; as if that continuing Freedom were also a perpetual Character of the Origination of the Name *Gentil* in this Sense fix'd on them; all which together, *Gentilezza*, or the like Term, by Reason of the Dignity of them that were stil'd by it, and the fair Manners, which both in Arms and Peace they affected, or at least pretended, hath denoted, and to this Day doth (we see) in these Tongues; *Mansuetus*, *Comis*, *Liberalis*, *Perhumanus*, and such more Epithets, and their Abstracts, do express a noble Spirit. And for *Hydalgo*; good Authors have supposed the Name originally to be *Hijo d'algodo*, or *Filius Gothi*, or the Son of a *Goth*, making it thus wholly from the Nation, whence the *Spaniards* are chiefly descended. And as this particular Name might be from a particular Nation of those *Gentiles*, so it seems, for a more general Expression, they made also their *Gentil-hombre* from the general Name of *Gentiles*. And as they, so other Nations

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that have their Provincial Tongues. Neither need we think of it with Relation to *England* otherwise, than as it came out of the Provincial Tongue of *France* to us. Before the *Normans* we had it not. From the *French Gentil-homme* we then made our Gentleman, which was before call'd *Aethel*, as is already shew'd. And our *Norman French* calls Gentlemen sometimes also *Gentilsgents*, and sometimes *Gentils* only. I know some fetch it into *France* from the Word *Gentiles*, as it occurs about the declining Times under *Julian* the Apostate, and his nearer Successors, in *Schola Gentilium* in *Ammianus* & *Marcellinus*. But I cannot think that so narrow a Number as the *Schola Gentilium*, or any Regiment or Company so stil'd, could propagate so universally through the Provincial Tongues, such a Name for all that were *Nobiles*; neither perhaps would the Author of that Fancy have thought so, if he had observ'd the so extensive Notion of *Gentiles* before shew'd. And for that of *Schola Gentilium*, and *Gentiles* otherwise mention'd in *Marcellinus*, in the Wars; there can be no great Doubt, but that they were only some Regiment or Company, stil'd so, because the Chief of them, or the most of them were, or had been *Gentiles* in that Sense, as it denoted such as were not *Romans*, according to the Use of denominating such Regiments and Companies in that Time; some from the Honour given to all, or most, or some of the Chief of them, as *Comites Palices*; some from their Arms, wherein they were most exercis'd, as *Sagittarii*, and such more; others from their Number distinguish'd according to the Time of their being chosen, as *Primani*, *Undecimani*, *Quarti*; some from the Nations, whence they were taken, as *Arcades*, *Ratavi*, *Persa*; and so these by the general Nature of the several Nations, out of which they were taken by the Name of *Gentiles*. But of these Names thus much.

The Use of Instruments or Charters, by which Gentry hath been given, is very ancient in the Empire, of which we shall first speak here, and then of some of other Nations: But let not the common Objection be made here, that no Charter can make a Gentleman, which is cited as out of the Mouth of some great Princes, that have said it. They without Question, understood Gentleman for *Generosus* in the ancient Sense, or as if it came from *Gentilis* in

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in that Sense, as *Gentilis* denotes one of a Noble Family, or indeed for a Gentleman by Birth. And to say that a Gentleman in such a Notion may be created, is in its self a Contradiction, no Creation can make any Man to be really of another Blood than he is ; tho' yet we have anon an Example of a Creation of one to be reputed, as if he were of the Blood of a Noble House. The same may be said of *Nobilis* in the ancientest Sense, as it denoted him that had *Jus imaginum*, or as it is taken by some Writers of our Age, while they dispute of Gentry, as if all *Nobilitas* were *Nativa*. And in that Sense also is the *Spanish* Proverb to be understood, The King cannot make an *Hydalgo* : But we take Gentry here for *Nobilitas*, and a Gentleman for *Nobilis*, as those Words have been used since the declining of the Empire, and are obvious to this Day in the Feudists and other Lawyers, that write of what concerns this *Nobilitas*, which is *Dativa* (as they call it), not *Nativa*, and is then regularly given, when by the Sovereign's Favour, or of one exercising Sovereign Power, *Quis ultra*, as *Bartol.* says (*L. 1. c. De Dignitatibus*) *honestos plebeios acceptus offenditur* ; tho' we want not an Example of a Creation by a Kind of Adoption. Some Touch is before given of the Creation of a Gentleman or *Nobilis* in the Empire. It was at first done by Charter, or *Codicilli Honorarii*, (we mean done alone ; for by Commissions of great Offices, and other Employments, it was done consequentially and most anciently, as also by Feuds and otherwise ; but of that Kind or other like we speak not at all further) in granting the *Dignitates vacantes*, or the Titles and Ensigns of great Offices without Employment, to no other End, but to ennoble, or put the Grantee into the Rank of them, that were *Nobiles*. And of such Grantees there is special mention in that old Law of *Zeno* the Emperor, touching the Judges, before whom the Persons of Eminency in the Empire should be question'd in Criminal Causes ; *Viros illustres in hac inclita urbe degentes, qui sine Administratione Honorariis decorati fuerint Codicillis, licet talem Prærogativam nostra jussionis meruerint, ut quod non egerint, videantur egisse in criminalibus causis Magnifica tue sedis*, (he writes to *Arcadius* his *Præfectus Prætorio*) & *Illustrissima urbicaria præfatura*,

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Etura, nec non etiam viri magnifici Magistri Officiorum (quoties tamen ad ejus Judicium specialis nostra Pietatis emanaverit jussio) sententiis respondere decernimus, ita ut hujusmodi viri sedendi quidem in cognitionibus dicendis minime sibi vendicent facultatem. And out of this Text, the Civilians commonly fetch their greatest and almost their sole Testimony of the Use of Antiquity of ennobling by Charter in the Empire: But there is a whole Title *De Honorariis Codicillis* in *Theodosius's Code*, (wherewith the Civilians do seldom consult) and some Laws, that shew the Use of those *Codicilli*, as ancient as *Constantine*, about 160 Years before *Zeno*, *Siquis*, &c. (saith he, *C. Theodos. Lib. 6. Tit. 21. l. 1.*) Divers other Laws are in that Title concerning these Charters of Honour or Ennoblishment.

But the Nobility thus gain'd (in Respect of that other, which was from real and not feigned Employment) was about that Time of *Constantine* sighted by the Name of *Umbra* & *Nomen Dignitatis* only, tho' afterwards by the Laws of other Emperors, (especially, I think, of *Gratian* and *Valentinian*) these *Dignitates Codicillariae*, as they were also stil'd, became to be, and continu'd afterward of much better Reputation. About the same Time also, the Emperors would sometimes by Patent give the Dignity of the *Ordo Equestris*, as *Constantine* the younger, and *Julian* gave it to all the *Navicularii*. But at this Day, and in those Ages, that have passed since, Arms have been frequently Hereditary: This Kind of ennobling in the Empire, saith *Kirknerus*, is by giving of Arms, together with the Privileges belonging to Gentry, *Per Insignium & Armorum, uti vocant, collationem, concessis una Privilegiis Ordini usitatis*. These are limited to the Heirs of the Body usually. And the Charter or Patent they therefore call a *Wappenbrieff*, as if you should say, a Grant of Arms. And how the Power of this Kind of ennobling belongs to the Princes of the Empire, or to others that have the Power given to them; see the Collections especially of *Nolden*, and the Patents of Creation of Counts Palatin, Forms of Patents of ennobling by the Emperors, in the latter Ages you may see especially in this History *Di Casa Monaldesca*, written by *Alonso Caracelli*.

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For the Pope's Power also exercis'd in ennobling or making a Gentleman, we observe here only that of *Pius Rebuffus*, a great Lawyer of France; *Item Nobilitare potest Papa* (saith he) *et Seculares Principes; unde cum in fundatione caveatur, quod nullus nisi Nobilis recipiatur; poterit Papa creare impetrantem Nobilem ad effectum obtinendi beneficium, &c.* But the most especial Form of Creation of a Gentleman in the Empire (I take *Italy* here, as before, for Part of the Empire), is in that Form, which I find in *Sallustius Tiberius a Cornetto*, his Formulary of Instruments according to the Stile of the Court of *Rome*, where the greater Part of a Gentle Family assembling themselves do, by Consent, as it were, adopt a Stranger, that hath well deserv'd of them, to be of their Family, as if he were descended by a Male from among them, and so create him a Gentleman, to be reputed *De Domo et Agnatione ipsorum*, and grant him also their Arms, and limit the whole Honour to him and the Heirs of his Body: It is titled, *Creatio alterius de aliqua Nobili Domo*.

The Forms of Ennobling in *France*, appear in the Edicts and Ordinances of that Country, and the Stile or *Protocolle* of the *Chancery* there. For the Purpose, *Henry* the 3d, in 1576, first reciting in an Edict, that the Nobility of the Kingdom was much diminished (which because of the Preservation of Military Forces, there consisting in the Nobility or Gentry, was necessary to be repaired,) and that he was advertiz'd, that divers Persons being not Noble, or *Roturiers*, were of such Vertue and Quality, as that they deserv'd to be honour'd with the Title of Noble, shews that he had took it into Deliberation with the Advice of the Queen Mother, and divers Lords of his Council, and by their Advice had resolv'd to ennoble, and by this his Edict did ennoble, in divers Parts of *France*, a certain Number of Persons, contained in a Roll or Volume made of them, granting also that they and their Children born in Wedlock should enjoy all Honours, Privileges, Preheminences, Prerogatives, Franchises and Immunities, that other Nobles of the Kingdom enjoy'd; that they might likewise freely purchase and possess all Noble Fiefs, and be free from Taxes, Imposts, &c. provided always, that they and their Children liv'd Nobly, and without any Thing that might derogate from Nobility or Nobles, as

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they call it, with this, that every of them pay a Finance for the Present, according as by Commission they should be tax'd (but for this once only) by the Contributory Lands, which they before held. This Ediſt was read, publiſh'd and regiſtred in the Chamber of Accompts in the Preſence of the Procuror-General, who conſented to it, for the Number only of one thouſand to be thus ennobl'd; and with this, that every of them ſhould ſue out particular Letters of Ennobliſhment to be preſented in the Court, (Letters of Ennobliſhment are there by the Law to be preſented) by the 18th of *June* following, in which Month the Ediſt is dated. Some other Ediſts of the like kind are in their Laws; as one eſpecially for the ennobling of divers Perſons in the Dutchy of *Bretagne*, wherein there is a Proviſion, that the reſt of the *Roturiers* or the like, be not the more charg'd with Taxes and Impoſts, becauſe they that were ennobl'd were diſcharg'd, but that the Receivers ſhould only take the former Rates of them. But the Forms of particular Letters of Ennobliſhment are in the Style or *Proto-colle* of the Chancery, where we have Examples both of them without paying any Finance, and of them with Finance paid, according as thoſe Ediſts ſuppoſe. For indeed the King there loſes ſo much, by diſcharging one that he ennobles of all Taxes and Impoſts, that it is Reaſon enough, that a good Finance ſhould be paid for it; and therefore without a ſpecial Diſcharge from the King, the Finance of common Right is due, and to be aſſeſs'd by the Treasuſers of *France*, as the *Proto-colle* ſays.

For the Privileges by which Gentlemen are made in *Spain*, as alſo for the reſt, that belongs to their *Hydalgua* or Principal Gentry, I refer you chiefly to that *Summa Nobilitatis Hispanica* of *Joannes Arce ab Otolora*, *Jo. Garcia de Nobilitate*, *Guardiola* of the ſame Subject. *Caſtillo de Bonadilla* in his *Politica Para Coragidores*, *Lib. 1. Cap. 4.* where alſo you have a moſt copious Enumeration of Teſtimonies concerning that Subject. Add to theſe *Gaspar Baetius*, *Lib. de Inope Debitore Creditori addicendo*, *Capite 16. Sect. 34. &c.* where alſo he diſputes how far a Gentleman of one Country is to be admitted to be ſo in another.

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For *England*; something of the Form of ennobling or making a Gentleman by the King's Charter appears before, where we speak of Esquires. *John de Kingston* is there rais'd to the State of a Gentleman. And other of like Nature are, *Henry* the 6th, by the Word *Nobilitamus*, creates *Bernard Angevin* a *Burdelois*, a Gentleman, and gives him Arms, for him and his Heirs of his Body, or his Descendants: (*Rot. Vasc. 23 H. 6. M. 7. N. 3.*) as also *Bernard de Guares*, a *Norman* (*Rot. Vasc. 24 H. 6. M. 6. N. 3.*) And in the Rolls, their Arms are painted and expres'd also in *Blazon*. Other more such are; some by the Kings themselves; some by some Kings of Heralds thereunto Authoriz'd. And for an Example of latter Time, this may be seen upon the Rolls to an *Hollander*, granted by King *James*. (*Rot. Tractat. Amicitiarum Temp. Jacobi Regis in Cancellaria.*) And in all Examples of our Charters of ennobling, Arms are given as a perpetual and necessary Concurrence with Gentry. In sum, that of *Albericus Gentilis* is ever observable in this Matter of Gentry, in *Nobilitatis vocabulo* (saith he, *de Nuptiis, Lib. 4. Cap. 13. ubi de Nobilitate ille fusius, & docte,*) *censendo sequi locum debemus, ubi de ipso & ipsius re queritur*: And he adds for Example, *Ecce in Anglia Nobiles censentur, qui vel hodie de Plebe sunt educti ad dignitates veluti Baronias & Comitatus.* (*Tir. Hon.*)

Cowel, (whose Authority is here last of all made use of for the Explanation of the Title of Gentleman) speaks thus of it, *viz.*

Gentleman, *Generosus*, is an irregular Compound of two Languages; the one from the *French Gentil*, i. e. *Honestus*, *vel loco Honesto natus*: The other from the *Saxon Mon*, as if you would say, A Man well born. The *Italian* followeth the very Word, calling those *Gentilhuomini*, whom we call Gentlemen. The *Spaniard* keepeth the Meaning, calling him *Hidalgo*, or *Hijo d' Algo*, i. e. the Son of some Man, or of a Man of Reckoning. The *French* also call him *Gentilhomme*. So that Gentlemen be those, whom their Blood and Race do make Noble and known. In *Greek*, they are *Ευγενεις*, in *Latin Nobiles*. (*Smith de Rep. Ang. Lib. 1. Cap. 20.*) Under this Name are compris'd all above Yeomen, so that Noblemen are truly

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call'd Gentlemen: But by the Courſe and Cuſtom of *England*, Nobility is either *Major* or *Minor*; the greater contains all the Degrees from Knights upwards, the leſſer all from Barons downward; *Smith. ubi ſupra Cap. 21.* The Reaſon of the Name may grow from this, that they obſerve *Gentilitatem ſuam*, i. e. the Race and Propagation of their Blood, by giving of Arms, which the common Sort neither doth, nor may do; for by the Coat that a Gentleman giveth, he is known to be, or not to be deſcended from thoſe of his Name, that liv'd many Hundred Years ſince, *Gentiles Homines*. Theſe Words *Gentilis Homo*, for a Gentleman, were adjudg'd a good Addition. *Hill. 27 Ed. 3. (Interp.)*

(2) *Arma gerens*] *Co: Inſt. 2 Pag. 667.* upon 1 *H. 5. Cap. 5.* OF Additions.

(1) *Verſtegan*

Now according to my Promiſe I ſhall give a more particular account of the Court of Chivalry for the deciding of Suits concerning Honours, (as I ſaid once before) and for preſerving to every Man the Right and Privilege of his Fame and Dignity. The Natural or Tribunal Seat or Court for the Nobility, is every where call'd *Militaris*, i. e. the Martial or Military Court, and commonly call'd the Court of Chivalry. The Judges are, the Lord High Conſtable (1) of *England*, and the Earl Marſhal (2) of *England*; which laſt ſits not here only as a Judge, but ſees alſo Execution (3) done. The Form of this Court with us is this, *viz.* The appointed Place for the holding there-

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of, is the King's Hall, wherein before the afore-
said Judges, the Plaintiff, either in Case of Dig-
nities or Arms, or of any other Suit of Contro-
versy concerning Nobility and Honour, may
sue the Defendant. But for the Form wherein
the Constable of *England* us'd to call the No-
bility and Gentry to his Court or Judgment-
Seat, I refer the Reader to larger Tracts of this
Nature.

The

(1) *Verstegan* gives this Etymology of the Word *Con-
stable*. I do find (saith he) this Name of Office ancient-
ly to have been *Cuningstable*; and I have shew'd before
that *Cuning* and *Cyning* being both one, our own Name
of King is thereof derived, and *Constable* might accor-
dingly more rightly be *Kingstable*.

The Etymology thereof is, *Columen Regis*, the Support
or Stay of the King; to wit, one that he especially de-
pends upon in the managing of his most weighty Affairs;
And albeit it be now in *England*, a Name of Office of
ordinary and vulgar Use, yet is it a Name very Honoura-
ble, and sometimes born by most Principal Noblemen, by
the Name of *High-Constable* of the Realm, (Restitution
of decay'd Intelligence.)

Lord High-Constable of *England*, *Constabularius An-
glia*; *Lambert* in his Duties of Constables, Num. 4. will
have to be a *Saxon* Word, compounded of *Koning* and
Staple, which signifies a Stay or Hold of the King.

Cowel rather thinks it to be made of these two Words
Comes Stabuli, because we have this Officer, with most
others from *France*, and not from the *Saxons*. *Comes Sta-
buli dicitur, qui praeest Stabulo*; an Officer very ancient
here in *England*, and mention'd by *Bracton*, seeming to
answer him who was call'd *Tribunus Celerum*, under the
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first Kings of *Rome*, and *Magister equitum* afterwards. The Power and Jurisdiction of this Officer was anciently so Exorbitant, that it was thought too great for any Subject, and therefore has been discontinued ever since the Reign of K. H. 8. *Edward Pigot* (or *Stafford*) then Duke of *Buckingham* having been the last High-Constable of *England*. However upon a Coronation, &c. a Lord High-Constable is created *pro illa vice tantum*.

Coke tells us, That this Office of Constable of *England* was of ancient Time Eligible, and afterwards of Inheritance by the Tenure of the Manours of *Harlefeld*, *Newman*, and *Whitenhurst* by Grand-Serjeantry in the Line of the *Bobun's* Earls of *Hereford* and *Essex*; afterwards of Right in the Line of the *Staffords* and Dukes of *Buckingham*, as Heirs General to them. And that at last by the Opinion of all the Judges, in the 6th Year of the Reign of K. H. 8. it was lawfully descended to the abovementioned *Edward* Duke of *Buckingham*, who in the 13th Year of that King's Reign, being attainted of Treason, it devolv'd by way of Forfeiture to the Crown; since which Time, both in respect of the Amplitude of the Authority both in War and Peace, and of the Charge, it was never granted to any Subject, but now of late *hac vice*; *Inst.* 4. *Pag.* 127. He tells us also in the next Page, that this great Office hath been usually granted *exercendum per se, vel per sufficientes Deputatos suos, super sufficientem deputatum suum*; that there is an Office of Sub-Constabularius, which was granted to *Thomas Kent*, Doctor of Law. *Pat.* 23 *H.* 6. *Parte* 2. *Simile* *Pat.* 22. *Ed.* 4. *M.* 1. And that there is also *Clericus Constabularia Angliae, & Promotor Causarum, & Negotiorum regiam Majestatem tangentium*, which Office was granted to *Tho. Appulton*, with a Fee of five Marks, *Pat.* 8. *Ed.* 4. *parte* 1.

(2) *Marshal*] *Marscalc*, now *Marshal*; in the ancient *Teutonic*, *Mare* had sometime the Signification that Horse generally now hath, and so serv'd for the Appellation of that whole kind, to wit, both Male and Female and Gelding, and so all went in general by the Name of *Mare*, as now by the Name of Horse. *Scalc* in our ancient Language signifieth a kind of Servant, as the Name of *Scalco*

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Scalco (tho' a *Teutonick* Denomination) in *Italy* yet doth.

Marscalc, from which our now Name of *Marshal* cometh, was with our Ancestors (as also with the other *German*s) *Curator equorum*, i. e. He that had the Charge of Horses. The *French* who (as we in *England*) very Honourably esteem of this Name of Office, do give unto some Noblemen that bear it, the Title of *Grand Mareschal de France*: And yet notwithstanding they do not otherwise term the Smith that curēth and ihooeth Horses, than by the Name of *Mareschal*; whereby we may perceive how Names grown to high Dignity, have sometimes taken their Original from Inferior Vocations. (*Restitution of decay'd Intelligence.*)

Now for what *Cowel*, *Coke*, and *Cambden* say of this Officer. *Cowel*'s Words are, viz.

Earl *Marshal*, *Mareschal*, *Marescallus*, is a *French* Word, signifying as much as *Tribunus Militum* with the ancient *Romans*, or *Πολέμαρχος* or *ἱππάρχος* with the *Greeks*; The *French* Word also may seem to proceed from the *German* Word *Marschalk*, i. e. *Equitum Magister*, which *Hottoman*, in *verbis Feudalibus*, verbo *Marescallus*, deriv'd from the old Word *March*, signifying an Horse; others make it of the two *Saxon* Words; *Mar*, *Equus*, & *Scalch*, *Præfectus*. Of this Officer, mention is made in divers Statutes.

This Office (*Coke* tells us *Inst.* 4.) has continued a long Time Hereditary in the Duke of *Norfolk*'s Family, descended by the Mother's Side from *Tho. Mowbray*, Earl of *Nottingham*, the first Earl *Marshal* of *England*, so created by King *Richard* the 2d. *per nomen Comitum Marescalli Anglie*. And this (as worthy of Observation) he did in the 20th Year of his Reign, tho' there were divers Lords *Marshals* of *England* before. The Authority of this Officer (saith *Cambden*) hath always been very Great, but increas'd much since there were no *Constables* of *England*, the Kings having referr'd several Matters to him, which formerly belong'd peculiarly to the *Constable*. As to his Precedency, he had none in respect of his Place, until King *Henry* the 8th, in the 31st Year of his Reign, assign'd him Place next to the Lord High *Constable*, and before the Lord *Admiral*. (*Brit.*)

(3) Execu-

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(3) *Execution done.*] 39 Ed. 3. fol. 3. Co. Inst. 4. pag. 123.

(1) *Pro-*

The manner of the prosecuting (1); the Action is on both Sides try'd by the looking into and searching of Letters-Patents, antient Charters and Evidences (as they term them), and by Witneses. All Things are for the most part acted by their Advocates in Writings, in *Latin* and *French*. At length the Definitive Sentence, according to Equity and Right, and our own Heroical (and not after any strange or Foreign) Custom, seal'd with the Publick Seal of the Office, is openly read, and afterwards deliver'd to the Earl Marshal to be put in Execution: If any Thing chance to be improvidently done, or unadvisedly in the Suit overslip'd on either Part; it is lawful for them to Appeal to the King, who usually refers the whole Matter to the Bishops, and other Ecclesiastical Persons, to the Lawyers, and others of upright Hearts and sound Judgments, to be again diligently examin'd and explain'd. But (2) now this Court is kept in the Hall of the Herald's-Office, and sometimes in the Court of
Re.

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Requests (3), where any Nobleman or Gentleman, abus'd in Point of Honour or Arms, may find Relief. The proper Judge thereof is the Earl-Marshal, or his Deputy; for the Earl-Marshal is vested with a Power of ordering, judging, and determining all Matters concerning Arms, Crests, Supporters, Cognizances, Pedegrees, Devices, and Ensigns Armorial; also of making and presenting Rules, Ordinances, and Degrees for Granting, Controlling, and Regulation thereof; and the putting in Execution the Laws and Ordinances relating thereunto.

Thus

(1) *Prosecuting.*] The Proceedings of this Court (of Chivalry) are according to the Customs and Usages of the Court of Chancery, and in Cases omitted, according to the Civil Law, *secundum Legem Armorum*. The Power and Jurisdiction of this Court are declar'd by 13 R. 2. Stat. 1. Cap. 2. Co. Inst. 4. pag. 123, & 125.

(2) The present State of Great Britain, Edit. 2, pag. 317.

(3) *Requests.*] Court of Requests, *Curia Requisitionum*, is a Court of Equity, of the same Nature with the Chancery, but inferior to it; being principally instituted for the Help of such Petitioners, as in conscionable Cases deal by Supplication with his Majesty. This Court, as Mr. Gwin saith, in the Preface to his Readings, had Beginning from a Commission first granted by H. 8. to the Masters of the Requests; whereas before that Time, in his Opinion, they

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they had no Warrant of Ordinary Jurisdiction, but travell'd between the King and the Petitioners, by Direction from the King's Mouth. This Court had assum'd so great Power to itself, that it grew Burthenfome and Grievous, and therefore was taken away, with some others, by a Statute made 16 & 17 *Car. 1. Cap. 10.* And therefore being out of Use, we need say no more of it here (*Cowel's Interp.*) (1) *Heralds.*]

Thus having run through all the Degrees, both of the *Majorum* and *Minorum Nobilium*, agreeable to our *English* Common-wealth, and given the Reader a full View of their Court of Chivalry, or Martial Court, wherein all Controversies relating to Nobility and Honour were decided and determin'd; I might here have room enough to speak of the solemn Ceremonies of the Heralds, their Institutions, Immunities, (both in Time of Peace and War) and of the Reputation they anciently had amongst all Nations; were I to roam at large beyond the Brevity I have to my self propounded; and whom therefore I had purposed in Silence to have passed over: But lest I writing of so many Degrees of our Noblemen, and so great Things concerning Political Nobility, might seem (in leaving them to speak for themselves) to have acted unadvisedly and partially, I thought it good

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good briefly, and by the Way to note these few Things concerning **Heralds**.

Herald (1) *Herald*, or *Harold*, in *Italian* *Heraldo*, in *French*, *Herault*, *quasi* *Hares altus*; and by *Verstegan* (2) deriv'd from two *Dutch* Words, *viz.* *Heer*, *Exercitus*, and *Healt*, *Pugil Magnanimus*, as if he should be call'd the Champion of the Army. With us it signifies an Officer at Arms, whose Business is to denounce War (3), proclaim Peace, or otherwise be employ'd by the King in Martial Messages or other Business. Formerly Persons dignified in Church or State were chosen for **Heralds**, who were sacred amongst all Nations. They were call'd plurally among the *Grecians* *Κήρυκες*, (4) *Præcones*, or *Caduceatores* by the *Latins*, because of the Rod or *Caduceus* they had, for a Token of their Employment.

Amongst

(1) *Heralds*.] Tho' I have given a short Hint in the Text of *Verstegan's* Derivation of the Word *Herald*; yet his Description of the Etymology thereof (in his Restitution of decay'd Intelligence) being very full, nice, and curious, I thought it not amiss to present the Reader with it in his own Words, *viz.*

About this Name of *Herald* (saith he) divers have diversly conceited; some would have it *Hierhaut*, some *Heirhaught*, some *Herault*, and some *Harold*, and I wot not what.

Some

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Some discerning it to come from the *Duytsb* can tell, that *Here*, is now therein as much as Lord, and that *Alt* is old, and thereupon they ridiculously conclude, that *Herald* signifieth Old Lord.

True it is, that *Herald* is meerly a *Tentonick* or *Duytsb* Word, and in that Tongue, and in no other, the true Etymology thereof is only to be found.

To begin then with the first Syllable thereof, which is *Here*, tho' in Composition abridg'd to *Her*, it is the true and antient *Teutonick* Word for an Army, the same that *Exercitus* is in *Latin*, and in that Sense is it yet us'd in *Germany*. And whereas the *Germans* do now use *Here* for Lord, yet anciently they so us'd it not, and altho' the *Teutonick* be not mix'd with other strange Languages, yet this Word *Here*, as they use it for Lord or Master, hath crept into their Language from *Herus* in *Latin*, after that the *Latin* Tongue became known unto them, and perhaps some half a dozen Words more may have done the like.

An *Healt* in the ancient *Teutonick*, is a most courageous Person; a Champion or especial Challenger to a Fight or Combat, and the Weapon that such sometimes most us'd was call'd an *Healtbard*, because it was Born by an *Healt*, we yet, tho' corruptly, retain the Name *Halbard*, and the *Netherlanders* make it *Hellebard*.

Here-bealt, by Abbreviation *Herald*, as also *Herald*, doth rightly signify the Champion of the Army: And growing to be a Name of Office; He that in the Army hath the especial Charge to Challenge unto Battle or Combat; in which Sense our Name of *Herald*, doth nearest approach to *Fecialis* in *Latin*.

Seven *Danish* Kings, besides some of *Norway* and *Sweden*, have had for their proper Appellation the Name of *Harold*, or *Herald*, which is all one with *Herald*; so Honourable was it accounted of in old Time, that so many Kings thereby were call'd, in regard, as it appeareth, that themselves might be honoured and respected, as the most courageous in the Army.

(2) *Verflegan*] *Richard*, a great *English* Antiquary, and a celebrated Critick in the *Saxon* and *Gothick* Languages, was born at *St. Catharine's* near the Tower of *London*,

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London, in the Sixteenth Century; altho' his Father was but a Cooper, he was extracted from an ancient and Honourable Family in *Guelderland*. He had his Education at *Oxford*, which he left without a Degree, upon the Score of his being a *Roman Catholick*. He quitted the Kingdom and settled at *Antwerp*, in the *Spanish Netherlands*. When the Jesuits and Secular Priests fell out in *England*, and drew their Pens upon each other, *Verstegan* went into the Jesuits Interest. He died about 1625. His Works are, *Restitution of decay'd Intelligence in Antiquities*, concerning the most Noble and Renown'd English Nation. *The sundry successive Regal Governments in England*, &c.

Heraldus; Heroldus, Herhault, Heraud, Heroud, Harold, Haraz, and Hyraudus.] *Nuncius Sacer, qui inter cuneos Hostium liberè ferat imperata. Voces incertæ radicis. Quidam enim Herbault Scribunt, i. e. Dominum celsum: Quidam Herold, qu. Dominum veteranum: Quidam Herald, hoc est ministrum exercitus; Here enim & Dominum significat, & exercitum; sed hoc in vocibus militaribus frequentissime, illud rarissime. Old, veterem: Ald, famulum, Ministrum, ut in voce Aldus videatur. Merula in notis ad Willirami Abbatis Paraphr. Cantic. canticorum; Uriend. houd, inquit, i. e. amicis fidelis. Heer-houd, i. e. Domino. aut exercitui fidelis. Vere sic enim Hols in Canuti LL. Ecclesiasticis Cap. 20.—u ton (Debeon aupum blasopbe hols 7 gethipe) i. e. Ut Domino nostro fideles simus & veri. Et in Æthelstani LL. capit. ultimo. Militia præfectum significat. Nescio in quam transeam Sententiam. Primam vero suspectam habeo, quod here & hault diversi sunt labij. Hoc Gallici, illud Germanici. Reliquæ satis placent; prisco muneri, prisca cooptantes appellationes: Scil. ut Heraldus exponantur, aut Veterani, aut exercitui fideles: Aut (quod Verisimilius est) Ministri exercitus seu armorum. Sunt tamen qui & primæ fidem astruunt, Heraldos dicentes quasi Heroes; ut in Aneæ Sylvij Epistola videatur (Spelm. Gloss.)*

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(3) War] OF the Definition of War, and the Original of the Word (*Bellum*), Grotius in his Treatise, *De Jure Belli & Pacis*, Lib. 1. Cap. 1. Sect. 2. saith thus, viz.

De Belli ergo jure acturi, videndum habemus quid Bellum sit de quo queritur; quid jus quid queritur. Cicero dixit Bellum, certationem per vim. Sed usus obtinuit, ut non (1) Actio, sed Status eo nomine indicetur, ita ut sit Bellum Status per vim certantium (qua tales sunt); qua generalitas omnia illa Bellorum genera comprehendit, de quibus agendum deinceps erit: neq; enim privatum hic excludo, ut quod reipsa prius (2) sit publico, & haud dubie cum publico communem habeat naturam, qua propterea uno eoq; proprio nomine signanda est. Neque hujus nominis origo repugnat; est enim Bellum ex veteri voce Duellum, ut duonus quod fuerat, factum est Bonus; & duis bis; Duellum autem à duobus dictum simili sensu, quo Pacem unitatem dicimus. Sic Græcis ex Multitudinis significatione Πόλεμος; veteribus etiam πόλες à dissolutione, quomodo & corporis dissolutio Δύω.

Neq; usus vocis laxiorem hanc nationem repudiat; quod si quando belli nomen publico tantum tribuatur, nihil ad nobis obstat; cum certissimum sit, nomen generis saepe speciei, præsertim excellentiori, peculiariter adherescere, &c.

Grotij Nota.

(1) (Non Actio sed Status), Philo. 2. de legibus specialibus: ὡς γὰρ, &c. Hostes non soli existimantur, qui jam navali aut terrestri praelio certant, sed protalibus habendi, & qui machinas admovent portubus aut Manibus, etiam si nondum pugnam incipiunt. Servius ad illud Prima *Aeneidos* — Nec Bello Major & Armis.

Bellum consilium habet; Arma tantum in ipso Actu sunt: Idem ad 8. Bellum est Tempus omne, quo vel preparatur aliquid pugna necessarium, vel quo Pugna geritur. Praelium autem dicitur Conflictus ipse Bellorum.

Gronovij

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Gronovij Notæ.

(2) Prius sit Publico.] *Horat.* 1 Sat. 3.

*Cum prorepserunt primis Animalia terris,
Mutum & turpe Pecus, glandem atq; cubilia propter,
Unguibus & pugnis, dein fustibus, atq; ita porro
Pugnabant Armis, quæ post fabricaverat usus.*

Thus English'd by the Translators of *Grotius* in 3 Vol.
8vo. (Edit. Lond. An. 1715.)

Hugo Grotius of the Rights of War and Peace. Book
the 1st, Chap. 1st, Sect. the 2d.

‘ Being then to treat of the Right of War, we must
‘ consider, what that War is, which we are to treat of ;
‘ what the Right is, which we search for. *Cicero* calls
‘ War a Dispute by Force ; but Custom hath so prevail’d
‘ that not the Act (1) but the State and Disposition now
‘ goes by that Name ; so that War is the State or Dispo-
‘ sition of those (consider’d in that respect) who dispute
‘ by Force of Arms ; which general Acceptation of the
‘ Word comprehends all the kinds of War, of which we
‘ shall hereafter treat ; not excluding any private Combat,
‘ which is really Ancienter (2) than the Publick one, and is
‘ undoubtedly of the same Nature, and may therefore well
‘ have the same proper Name. Nor is the Derivation of the
‘ Word against it : For the *Latin* Word (*Bellum* War)
‘ comes from the old Word *Duellum* (a Duel) as *Bonus*
‘ from *Duonus*, and *Bis* from *Duis* ; now *Duellum* is ta-
‘ ken from *Duo*, Two, in the same Sense as we term
‘ Peace Unity ; So the *Greeks* styl’d War Πόλεμος, by a
‘ Word that implies a Multitude : And the Ancients
‘ call’d Sedition λυή, from its disuniting or dissolving, as
‘ the Dissolution of the Body was signify’d by *λυή* either
‘ as it was a Separation of *Α.δ.* Two, (Soul and Body) or
‘ as it was look’d upon to be a great Misfortune.

‘ Neither does the Use of the Word (*War*) contradict
‘ his large Acceptation, for tho’ we only apply it to sig-
‘ nify a Publick Quarrel, this is no Objection at all ; since
‘ ’tis most certain, that the more eminent Species does of-
‘ ten peculiarly assume the Name of its Genus.

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Grotius's Notes.

- (1) Not the Act but the State.] *Philo*, Second Book of Special Laws. *Ἰσμεν γὰρ, &c.* In my Opinion, not only those are to be reputed Enemies, who are actually engag'd in Battle at Sea or Land; but we judge those so too, who are preparing for either Service, and shall presume to erect Instruments of War in their Ports, or on their Walls, tho' they have not as yet begun their Hostilities. And *Servius* upon this Passage of the first *Aeneid*.
- A nobler Warriour never drew a Sword. (*Dryden's* Virg.) observes, That by War is to be understood a previous Council and Fore-cast; by Arms or the Sword, an actual Engagement. And in 8th *Aeneid*; he says, War (*Bellum*) is all that State or Time, in which something necessary to the War is providing, or the War itself continues; but the actual Engagement is properly call'd (*Pralium*) the Fight.

Gronovius's Notes.

- (2) Ancienter than the Publick one.) *Horace B.1. Sat. 3.*
Cum prorepserunt primis, &c.
- When Man first crept from Mother Earth's cold (Womb,
- He was a miserable Thing, and Dumb :
- Then they for Acorns fought, and shady Cave,
- With Nails, then Clubs, the Weapons Nature gave.
- And next with Swords, which sad Convenience (found.

Creech.

Having given the Definition of War, and the Original of the Word (*Bellum*) out of *Grotius*; I shall now shew what regard the *Romans* had to War, out of *Collier's* great Historical, &c. Dictionary. His Words are, viz.

The *Romans*, as *Varro* observes, were not forward in Undertaking of War; and when it was resolv'd, they not think the Prosecution of it justifiable, unless it was

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was first declar'd, after they had been refus'd Satisfaction. Their Way was therefore to send four Heralds to demand Reparation; which, if granted, they were empower'd to make a League, otherwise after the Common-Wealth had deliberated maturely upon the Point, they proclaim'd War, which they call'd *Clarigatio*; their manner of doing it is thus describ'd by *Dionysius Halicarnassæus*. One of the Heralds (says he) elected by the College, and dress'd in the Habit and Equipage of his Office, march'd into the Territories of the Enemy; and as soon as he came there, he us'd to call *Jupiter*, and the rest of the Gods to Witness, that the *Romans* had sent him to demand their Right; upon this, he was to Swear, That he was going to a Town that had been Injurious, and if he charg'd unjustly, he wish'd a Curse might light upon him and his Countrymen. And thus entering into the Enemies Country, he made the same Protestation to the first Person he met, and repeating the same Imprecations, went forward to the Town. And before he went in at the Gates, he us'd to declare the Justice of his Cause, either to the Guards, or the first Person he met; and then going on to the Market-Place, he inform'd the Magistracy of his Business, swearing and cursing at a very solemn Rate, upon this, if the Town put the Persons complain'd of in his Hands, he led them off and parted Friends: If the Town desir'd Time to consider; he return'd for their Answer ten Days after; which was sometimes thrice repeated: But if he was not satisfied in his Demands, after thirty Days, he appeal'd to the Gods of Heaven and *Hades*, and so went off, only letting them know, that the People of *Rome* would consult about the Matter, and take their Measure at their Leisure. Then taking the rest of his Fraternity along with him, he made his Report to the Senate, and told them that he had perform'd all the Parts of his Office; and that now, if they had a mind to resolve upon War, the Gods would give them free Leave to do it. *Livy* tells us. (*Lib. 1. Cap. 32.*) That *Ancus Martius* learn'd this Custom of the *Æquicolas*, and that it was afterwards very religiously observ'd by the *Romans*; and then this Historian repeats the Prayers and Imprecations of the Herald much in the same manner with *Dionysius Halicarnassæus*; He likewise adds, That after the War was resolv'd on, the

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Herald threw a Lance into the Enemies Territories. And some Anthors tell us, That after a Publick Declaration of War, they us'd to drive a Ram into the Enemies Fields, to let them know, That in a little Time, their Country was to be Pasture for the Flocks and Cattle of the *Romans*. Much the same Form was us'd by the *Athenians*, who, before they took the Field, us'd to Fortify themselves with a great deal of Religious Ceremony, for the Purpose by Sacrifices, consulting of Augurs, and reading over all the old Oracles, in which their City had been concern'd. Afterwards, in Imitation of the *Jews*, *Latins*, *Persians*, and other Nations, they us'd to Promise some considerable Acknowledgment to their Gods in Case of Success. For Instance, either the Tenth of the Plunder or Baggage to *Apollo*, or something else equally Valuable, and sometimes they were so extremely Liberal in their Vows, that the Oracles of *Jupiter Hammon* was forc'd to bid them hold their Hand, and practise the good Husbandry of *Lacedemonians*: And as the *Lacedemonians* us'd to look upon the Full-Moon, as an unfortunate Time to set forward in their Expedition; so the *Athenians* were given to some Almanack-Superstition; and therefore would not march before the 7th Day of the Month, nor chuse their Generals till the Full Moon appear'd. As to the Order of Battle, the General always had his Post in the Right Wing; and those that were last Listed, were planted in a Place of least Danger. When they came to a River, they us'd to Sacrifice, before they pass'd it, which was likewise the Custom of the *Romans*.

To return to the *Athenians*, when they were going to Charge the Enemy, the Sacrifices and Inspection of the Entrails being open, they us'd to send out some Soldiers, with Torches in their Hands, call'd *Πυρρῆες*, who marching into the Place between both Armies, gave the Signal of Battle. These Men were not to be charg'd by either Side, being protected by their Office, and by their being consecrated to *Mars*. This use of Torch-bearers was Prior to the Invention of Trumpets, which latter are said to be invented by the *Tyrrhenians*, and that one *Archidas*, who assisted the *Heraclida*, brought them first into *Greece*.

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As to the *Israelites*, or *Jews*, the Preliminaries of fighting were These: First the Priest was to sound to Horse; the Air us'd to be martial and awakening: Then one of the College of Priests, was pitch'd upon to make a Speech to the Soldiers, and to encourage them to behave themselves well, from the Topicks of Interest, Honour and Religion. Num. 10. Deuter. 20.

That War which the *Romans* were engag'd in against several Towns and Clans in *Italy*; as the *Hetrusci*; the *Latins*; the *Marfi*; *Peligni*; *Picentes*; the *Lucanians*; the *Samnites*, &c. and in short, all the Nations, from the *Liris* as far as the *Adriatick* Gulph, was call'd the War Social. The Management of the War was given to the Consuls, *T. Cesar*, and *Rutulius Lupus*. The Progress and Issue of this Contest, is related in the Epitome of *Livy* by *Appian*, *Valerius Maximus*, *Strabo*, *Florus*, &c. This Dispute *Florus* calls a Sort of Civil War, because the *Romans* had Incorporated the *Hetrurians*, *Latin*, and *Sabines*, as it were with themselves. The famous General *Lucullus* is said to have writ the History of this War in *Greek*, as one *Luceius* did in *Latin*.

Those were call'd Confederates, who, tho' under the Disadvantage of some Tribute or Service to the *Romans* (agreed upon by Articles), enjoy'd their Freedom in other Respects, and had the Privilege of chusing their Magistracy, making Laws, and modelling their Government, as they thought fit. The Prince of any of these Confederate Nations was call'd *Amicus* & *Socius Senatus* & *Populi Romani*: But that these Allies were not Free of the City of *Rome*, by Vertue of the Confederacy, is plain, because we read of the Naturalization of several of them. The *Lex Socialis* or Social Law, mention'd by *Tully* against *Verres*, was to relieve these Confederates and the Provinces, against the Oppression of the *Prators*, *Quaestors*, and other *Roman* Governors and Officers; *M. Porcius Cato*, when made Governor of *Sardinia*, releas'd the Confederates from the Expence they us'd to be at, at the receiving the *Roman Prators*. In the Year of *Rome* 604. *L. Calpurnius Piso*, Tribune of the People, procur'd a *Prator* to be assign'd for the Confederates, for the redressing of Grievances: For this Reason these Allies were bound to gratify this Minister of Justice for his Trouble

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There was also *Aurum Coronarium* demanded of them, that is, Gold to make a Crown for the Emperors and Generals at the Solemnity of a Triumph. This Triumphal Gold was afterwards assess'd at a certain Rate, and demanded not only of the conquer'd Countries, but of the Confederates. Thus *Spartian* tells us, That *Antoninus Pius* forgave the *Italians* all the Coronary Gold, which was due to him upon the score of his Adoption, and demanded but half the Duty of the Provinces. Further, the Confederates serv'd the *Romans* in the Field at their own Charge; and therefore to make them some Amends, all the Plunder they took was their own; Thus the *Latins* were admitted to an equal Share of the Booty taken in those Wars, where they serv'd the *Romans*. Thus the *Atolians*, when the *Romans* were their Confederates, kept the Lands and Towns taken from the Enemy to themselves, but let the *Romans* have the Prisoners, and what Plunder they could carry away. And as the *Romans* had a Body of Confederates, so they were sometimes Auxiliaries themselves, as in the Case of the *Atolians* above-mention'd; and under this Pretence of serving their Allies, they frequently outed them of their Liberty and Property: Thus the *Latins* complain'd, that they were meerly decoy'd into Slavery under the Colour of *Roman* Confederates; the same Complaint was preferr'd by the *Atolians*, who alledg'd, that they had nothing left them, but the bare Name of Freedom: And thus *Civilis* one of the *Batavi* Remonstrates in *Tacitus*, that they were treated more like Slaves than Confederates, and artickled out of all their Freedom. Some of the *Roman* Confederates were by special Privilege call'd *Fratres & Consanguinei*, the Brothers and Cousins of the *Romans*. This Favour, as *Tacitus* observes, was first bestow'd upon the *Adui* in *Gaul*, who had a great many Marks of Respect given them by the Senate: to which *Tacitus* adds, That they were allow'd some of them to sit in the Upper House at *Rome*.

Those Confederates, who were not Denizons of Common Right, had some of them (particularly the *Latins*) this Privilege, when they had born an Office in a *Latin* Colony, provided they had left some Branch of their Family at Home. They were likewise Naturaliz'd by the *Servilian Law*, when they had prosecuted any *Roman* Magistrate

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strate for Oppression and Imbezeling the Publick Money, and cast him. The *Romans* had those they call'd Confederate Kings, who had either an expresse Liberty, or at least a Connivance to enjoy that Station: An Act of the *Roman* Senate was, as it were, the Charter of these Prince's Authority, and may be call'd an Original Contract; when they had this Permission or Licence to Reign, they us'd to take upon them the Stile and Equipage of a King; and that the Favour might be made more publick, and better remembred, the *Romans* us'd to send them a great deal of Royal Furniture with their Title, viz. A Diadem, a Golden Censor to Sacrifice in, a *Cella Curulis* or Ivory Chair in a Chariot; a *Toga Picta*, that is a Vest with Gold Flowers, a Purple Surtout, an Embroider'd Coat, Broad Buttons; Horses with Rich Trappings, and a Suit of Armour, such as the Consuls us'd to wear; for these Ornamental Marks of Authority, the Reader may Consult the Tenth Book of *Livy*, *Suetonius* in *Tiberius* and *Nero's* Life, and *Tacitus* in his *Annals*, where mention is made of this Respect paid to *Archelaus* King of the *Jews*, to *Tigranes*, and *Tiridates* Kings of *Armenia*, and to *Parthamospates* King of the *Parthians*, (*Collier's great Historical, &c. Dictionary.*)

(4) *Κήρυκες*] *Videamus tandem* (ait *Spelman*) *quale apud Antiquos olim fuit hoc genus hominum, quo appellatum nomine, quo functum munere. Exegit semper necessitas, ut inter ipsos Hostes belli haberetur indictio; Captivorum Redemptio; Occisorum Sepultura: Colloquia; Nuncia; Responsiones; Inducia: Pax interdum & Fœdera. Exegit parilis necessitas, ut qui in istis Operam navarent, modesti essent; Facundi; graves; Prudentes, Spectata & Fidei & Religionis, noti omnibus, omnique liberi Suspicionem: Electi sunt igitur ex ipsis Honoratioribus viri istiusmodi Spectabiles, qui non solum Autoritate pollerent, sed & cultu etiam Religionis, immunitatem præ se ferentes, tuto irent & redirent, tuto inter acies versarentur. Gracis proprie dicti sunt Κήρυκες, i. e. Praeones, Caduceatores, & (verbo autocthone, quod apud Senecam legitur) Ceryces. Sic enim Ille ad Senecam, non vis nisi Consul, aut Prytanis, aut Ceryx, aut Suffes administrare Rempub.*
ab

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ab adjunctis vero, Θεράποντες & Ἀγγελοι, Ministri seu Famuli, & Angeli seu Nuncii.

Fas Cerycibus imperata, etiam apud Hostes, libere enunciare. Hinc exsecta in Sacrificiis Lingua illis dabatur, Mercurioq; Sacri, & inter Sacerdotes sunt habiti; sceptrum etiam (ut illius avi Principes & Heroes) gestabant; tum ad Authoritatem arguendam, tum ad pangenda Fœdera, & dimicationes dirimendas. Principibus tamen famulabantur & Heroibus: Sic enim Eurybates Ceryx Ithacensis, Ulyssi; Iliad. B. & Homerus expresse: Κήρυκας παρὰ τοῖς Ἡρώσι διακονῶσι. Ceryces (inquit) Heroibus sunt a Ministerio. Quippe in conviviis aquam (jungere Amicitia Symbolum) in convivarum manus effundebant, & vinum porrigebant; & Cytharam: in publicis denique negotiis, sua passim obibant Munera. Unde ab Homero (qui de his plurima) in Odys. τ. Δημοεργοὶ appellantur, i. e. publicam navantes operam.

In Græcorum exercitu (qui è 12 fertur constitisse Myriadibus) novem erant Ceryces, seu Pracones. Sic enim Homerus Iliad. B.

Sunt qui Græcos sacrum quiddam in hoc munero arbitratos, suis eum Cerycibus cooptasse opinantur. Nostris vero Heraldis fortuito accedit, quod à Gerardo Leigh non observatum miror. Totus enim Novenariis delectatus, artem totam Heraldicam Novenariis consumpsit divisionibus: Heraldorum interea oblitus, i. e. sui ipsius professionis. Hæc apud Græcos, (Spelm. Glossar.)

(1) Pagani]

Amongst the Pagans (1) they were consecrated to Mercury (2) and reputed his Priests (3) the Victim's (4) Tongue was their Fee. The Romans call'd them *Feciales* (5); and it was not lawful to make War, until four of them had demanded Satisfaction for the Injury receiv'd, and declar'd War upon the Refusal throwing

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ing into the Enemies Country, a tagg'd Spear died in Blood and burnt at the End. *Nonius Marcellus* (6) saith, that they were 120; and that King *Numa* establish'd a College of them under a Commander named *Pater Patratus*. *Titus Livy* (7) mentions the Ceremony us'd at the Creation of that Commander; and of the Heralds, he saith, that they touch'd their Head and Hair with *Vervain*; with which they were also crown'd when they perform'd their Office, that they might be known. *Servius* (8) adds, That they wore Linnen Cloths. *Polydore Virgil* (9) thus describes them, (10) *Habent insuper Apparitores Ministros, quos Heraldos dicunt, quorum Praefectus Armorum Rex vocatur; Hi Belli & Pacis Nuncii ducibus Comitibusq; a Rege factis, Insignia aptant, ac eorum Funera Curant.* Nay more, they are the Judges and Examiners of Gentlemens Arms, Marshal all the Solemnities of the Coronations of Princes, manage Combats and such like. There is one and the same use of them with us and the French, whence we have their Names: And what their Office is with them, see *St. Lupus* (11), (12),

There

[1] *Pagans*]

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(1) *Pagans*], in *Latin Pagani*, from *Pagus* a Village, were so call'd, not because they retir'd into the Country, but that when the Christians began first to preach in Cities, the Inhabitants of them were converted before that those of the Country could have the Means dispens'd to them. The *French Words Paysants* and *Payens* have the same Original; hence the Council at *Francford*, Anno 742, forbid all *Pagan Rites*, and Sacrifices for the Dead, &c.

(2) *Mercury*], an Heathen God, Son of *Jupiter* by *Maia*. They commonly distinguish three other *Mercuries*, but they are not different from *Maia's* Son. He was the Gods Messenger, having Wings at his Heels, and a *Caduceus* in his Hand; he conducted the Souls of the Deceased into Hell, and had Power to bring them out again. He was the God of Eloquence and Merchandize: By *Jupiter's* Order, he play'd the Hundred-ey'd *Argos* asleep; and afterwards kill'd him. He likewise stole *Apollo's* Oxen, which he kept for *Admetus*: *Mercury* also turn'd *Battus* into a *Touch-stone*; and perform'd a great many other Exploits; *Mercury* also is one of the Planets.

(3) *Priests*] comes from the *Greek Word* *Πρεσβυτης*, signifying old, and indeed Priests ought to be so in respect of Age or Prudence. As to the Old Testament, there the Age of the Priesthood was fix'd to thirty Years; and we see our Saviour did not begin his Ministry before that Time. But under the New, there are no Terms of Years prefix'd, and the Practice of Churches hath been various herein: As to the Heathen Priests, they were Persons appointed to offer Sacrifice, and first instituted at *Rome* by *Numa Pompilius* and call'd *Sacerdotes*; whereof there were two Sorts; one for all the Gods in General, call'd *Pontifices*; the other for the Gods in Particular, as the *Luperci*, for the God *Pan*; the *Sodales Titii* for the Gods of the *Sabines*, the *Salij* for *Mars*; the *Vestals* for the Goddess *Vesta*; the *Flamins* for *Jupiter*, *Mars*, or *Quirinus*; the *Galli* for *Cybele*, the Mother of the Gods. Besides which, there were certain Magistrates or Officers call'd *Epulones*, who were as the Intendants or Stewards, that

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that presided over those Feasts, that were made after the Sacrifices. The King of the Sacrifices, who was, as it were, the Master of the Ceremonies: The *Fratres Arvales*, who took Care of the Sacrifices offer'd for the Increase of the Fruits of the Earth; and the *Fratres Curionis*, that were over the Sacrifices of each *Curia*.

(4) *Victims.*] Beasts offer'd up in Sacrifice to the Gods; the Barren to the Infernal, and the Fruitful to the Celestial. To *Jupiter* were sacrific'd Oxen and white Cocks; To *Juno*, a Cow or Sheep; To *Diana*, a Doe; To *Ceres* and *Cybele*, a Sow; To the God *Pan*, a Goat or Dog; To *Mars*, a mad Bull; To *Neptune*, an Horse, an Hee-Goat, or a black Bull; To the God *Terminus*, a Lamb; To *Apollo*, an Horse; To *Minerva*, a Mare; To *Venus*, a Pigeon or a Turtle; To *Isis*, a Goose; To *Bacchus*, a Kid, or an Hee-Goat: And to some Deities were offer'd nothing but Fruit, Liquors, and other Things of that Nature: As to the Nymphs, Wine sweeten'd with Honey, Metheglin, or Milk: But these Liquors were likewise expended upon the Victims, which were offer'd to the other Gods.

(5) *Fæciales*] *Ut Homerus hos Ἀγγέλους vocat; ita Virgilius Nuncios. Quem enim Monomachiam Aeneae indiciturum emisit Turnus, hoc modo alloquitur. Aeneid. 12.*

*Nuncius hac Idmon Phrygio mea dicta Tyranno
Haud placitura refer.*

Eodem sensu apud Livium Lib. 1. Nuncius regius, & Nuncius publicus. Quia utem bellum apud Romanos indicabant, & in istiusmodi versabantur muneribus, Fæciales vulgariter nuncupati sunt; a faciendo (ut Festo placuit) quod belli pacisq; faciende penes eos jus erat Alij. à Fædere Sanciendo, ideoq; Scribunt per α, Fæciales: Ut Marcellus & Livius. Bellum vero non licebat inferre, nisi quatuor ex his de Injuria conquerentes, Satisfactionem prius ab inferentibus petiissent; juste, susceptum denunciaissent; atq; unus Hastam ferratam, Sanguineam aut prauistam (sunt Livij verba) ad Fines eorum ferret, & non minus

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minus Tribus presentibus puberibus re exposita, bellum indixisset; ipsamque hastam in fines eorum projecisset.

De Clarigandis & repetendis sic emissi Feciales; legati Sancti, & Sancto Munere functi dicuntur, nec non Oratores; ut è Nonio Marcello, Lib. 3. Cap. 12. Constitit. Qui præterea Varronis (de vita Pop. Rom.) Lib. 3. Fecialium numerum refert fuisse 120, atque eos de injurijs cognovisse, & judicasse, legatis impositis. Erant autem Sacerdotes, a Numa Pompilio in Collegium instituti, suo audientes Anstituti; qui à patrando, i. e. (ut Livius exponit) à sanciendo federe, Pater Patratus dicitur: Hujus, & perinde Fecialium creandorum ceremoniam ab eodem Livio accipe Lib. 1. ubi post multa huc apposite spectantia: Fecialis (inquit) erat M. Valerius: Patrem patratum Sp. Fusum fecit, verbena caput capillosque tangens; vide locum.

Moris quippe fuit ut Fecialis Verbena aut Sagmine, Herbis sacris è Copitolio petitis, Coronarentur, præsertim de pace acturi: Inde verbenarij, Saginarij & Sagminarij (sensu quo Caduceatores à ferendo Caduceum, vel ejus Characterem) nuncupati sunt. Sed transferuntur interdum omnes istæ Appellationes, ad Minaces ipsos Feciales, Belli Nuncios, Significandum: Quippa & hi eadem alias gerebant Symbola, ut è gestaminis Sructitate dignoscerentur Sancti, ecq; forent ab injurijs immunes. Nam ut in F. Tit. de rer. divis. Sanctum est, quod ab injuria Hominum defensum atq; Munitum est. Sanctum autem dictum est à Sagminibus: (Imò à Sanciendo): sunt autem Sagmina quadam Herba quas legati Pop. Rom. ferre solebant; ne quis eos violaret, sicut legati Græcorum ferunt ea, quæ Cerycia (i. e. Caducea) dicuntur. Hinc Catonis illud: Caduceatori nemo Homo nocet. Verbena autem redimitos fuisse Feciales, tam Bellum indicentes, quam pangentes fœdera, indicat Servius ad illud Virg. Æn. 12.

Velati lino & Verbena Tempora Vinciti.

Verbena (inquit) proprie est Herba Sacra, sumpta de loco Sacro Capitolij, qua Coronabantur Feciales, & Paterpatratus Fœdera facturi, vel Bellum indicturi. Hæc de Fecialibus, quam nos vocem per Diphthongum non scribimus, ne ad Fœdera pangentes restringeretur. (Id. Ibid.)

(6) Nonius Marcellus.] An Eminent Grammarian and Peripatetick Philosopher of Tybur: He wrote a Treatise de

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de Proprietate Sermonum; consisting of Nine Chapters, and Printed at Paris in 1614, with Mercier's Notes upon it. Lib. 3. Cap. 12.

(7) Lib. 1.

(8) *Servius*] *Honoratus*, Surnam'd *Maurus*, a Famous Grammarian, that liv'd in the Second Century; and according to others, about 410. He writ Commentaries upon *Virgil*, and divers others.

(9) *Polydore Virgil*] of *Urbini* in *Italy*, liv'd in the Fifteenth and Sixteenth Ages. He publish'd in 1499 a Piece, *de Inventoribus Rerum*, in Eight Books. Going afterwards into *England*, in order to receive the *Peter Pence*; he acquir'd the Prince's Favour, and was made Arch-Deacon of *Wells* in 1526. He printed at *London* his Treatise of *Prodigies*, and afterwards compleated the *English History* in Twenty-six Books, which is not very exact. He dyed about 1555.

(10) Lib. 19.

(11) *St. Lupus*] Bishop of *Troyes* in *Champagne* in *France*, in the Fifth Century, who wrote *de Solemnitatibus*, &c. Obiit July 2. 479.

(12) Lib. 1. de Magist. Franc. Cap. Herald.

(2) King

There are thirty Heralds at Arms in *France*, whereof the first is call'd King (1) of Arms, under the Title of *Montjoye St. Dennis*; the others have Titles taken from the different Provinces of the Kingdom, &c. As for the Name of *King* given to the Chief Herald, it was

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was common to other Chief Officers; as King of the Archers, &c. But there is a particular Reason for the Title of King at Arms, *viz.* That on the Day of his Institution, they put a Crown upon his Head, which he wore in many Ceremonies, where he represented the King's Person; for which Reason he was always a Knight. Amongst the *Romans* he who presided at Sacrifices and Ceremonies, was also nam'd King.

Antiently

(1) *King at Arms.*] The Solemnity of their Creation being no where inserted in the Current Text of this Essay, tho' somewhat is said of the Office, I shall briefly give it the Reader here.

In Ancient Times, and no further off than the Reign of *Ed. 6.* the Kings at Arms were created by the King; but now this Ceremony is perform'd by the Earl-Marshal, having a Commission for this Purpose sign'd by the King; which Authority he is likewise furnish'd with, at the making of any Herald or Pursuivant. At the Creation of Garter, there are those Three Things following provided, *viz.* a Book and a Sword to be sworn upon; a gilt Crown; a Collar of SS. a Bowl of Wine; the Bowl being the new Garter's Fee; and a Coat of Arms of Velvet, richly Embroider'd. The Form of the Coronation, practis'd in *Edward* the 6th's Time, and which still continues, is thus, (excepting that now the Earl-Marshal represents the King). First Garter kneeling down before the King; his Majesty's Sword lying on a Book; Garter laid his Hand upon the Book and Sword, while *Clarencieux* read the Oath; Upon which Garter kiss'd the Book and Sword. Then *Clarencieux* read the Letters Patents of his Office: At the close of which, the King took the Bowl of Wine, and pouring

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pouring it on his Head, nam'd him *Garter*: After this his Majesty put on him his Coat of Arms, the Collar of SS about his Neck, and the Crown upon his Head, and so the Ceremony was finish'd.

The two Provincial Kings at Arms, *Clarencieux* and *Norroy* are created in the same manner, tho' their Oath is somewhat different; an Herald at Arms passes much thro' the same Form, only he has no Crown, his Collar of SS is Silver, and his Coat of Arms only Sattin, Embroider'd with Gold. The Distinction between him and a Pursuivant is, That the Coat of Arms of the latter is Damask embroider'd; to which we may add, that the Oaths of the Provincial Kings, Heralds, and Pursuivants, are different. (*Weaver's Funeral Monuments*).

Queritur (inquit Spelman) cur Heraldici dicuntur Reges. Rex Latinis interdum divitem notat & potentem. Parum hoc ad Heraldos. Roy autem apud Francos (inter quos Originem Nominis libentius quero) prepositum & visitatorem interdum significat: Sic Roy de Merciers nuper appellatus est qui rem venalem in Aula exercentibus proponebatur; merces, pondera, & mensuras curaturus. Sed Edicto Regio, An. Dom. 1597, nomen ejus (ut ludibrium Majestatis) in Visiteur mutatum est. Erat & antiquior quidam Rex de Ribauldis dictus: Cujus in munere fuit aulam lustrare, Balatrones, Insidiatores, & Facem Populi arcere, manu stipatus Sagittariorum. Hujus utiq; titulum, illo evo, ademit Carolus 6, qui Regnum inivit sub. An. Dom. 1381, & successit (ut opinantur) Provost del'hostel, postea le Grand Provost de France, & del'hostel du Roy nuncupatus. Sed interea, ut, flore Romano imperio, Rex etiam dictus est qui sacris præsuit & Ceremoniis: Sic Heraldici, Regis curantibus ceremonias, & sacram Dignitatem, sua mansit Regia Appellatio. Presertim dum Personam Regis quodammodo exhiberent, Coronati, Consecrati, & Armis seu insignibus Regiis tanquam ipsius Regis militari indumento, adornati.

Facti sic videntur velut statuae sui Principis; cujus ideo Titulum (sive Regis, sive Ducis, sive Comitis) aliquando accipiebant: Heraldus scilicet Regis Franciae, Rex Armarum Franciae appellatus est: Heraldus Ducis Britanniae mi-

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noris, Dux Armorum illius Britannia: Et Heraldus (ut fertur) Ducatus Normannia, Dux Armorum Normannia, &c. Insignitus est etiam Rex Armorum Corona deaurata instar Regia; Dux vero Armorum circulo tantum, seu corolla Ducali; Hinc sub uno Rege vel Principe unicum habendum Regem vel Principem Armorum, quidam asserunt. Ob Regium autem Honorem sanctius conservandum, edito cavit Philippus Augustus, ut Regalium ha rituum ceremonia, nulli conferrentur Regis Armorum muneris candidato, donec cingulo militari (ipsis olim Regibus in desiderio) Ornentur.

Quoad Consecrationem Heraldii, nihil ea magis Antiquitatem predicat: Nam ut Ministri illi antiqui sacri fuisse memrantur & Sacerdotes; sic Heraldus quilibet hodie è prisco ethnicorum more (res enim inde petitur) consecratur: Principe, aut vicario ejus comite Mariscallo, craterem vini in Heraldii caput provoluti in genua effundente, nomenq; muneris imponente. Hec libandi olim & Consecrandi Ceremonia. (Spelm. Gloss.)

(1) Two

Antiently there were only two (1) Heralds in *England*; one for the South part, call'd *Clarencieux*; and the other for the North call'd *Norroy*: There were also two for that Part of *France*, which was subject to *England*, viz. *Guien*, instituted by *Edward* the First, and *Agincourt* by *Henry* (2) the Fifth, in Memory of the famous Victory obtain'd there. There was another for *Ireland* (3) call'd *Ireland*, but by *Edward* the Sixth call'd *Ulster* (4). All which belong'd to the King. Those which appertain'd to the Queen, were call'd Heralds simply,

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simply, who are now quite abolish'd; their whole Number being reduc'd to three Kings, and six Heralds or Dukes at Arms.

Richard

(1) Two Heralds.] *Munus Heraldorum in multis quidem antiquissimum est; &c. ab Heroum aeo. Nomen apud ipsos Germanos tardius auditum. Gallos atq; externos mitto. Anglos video suos habuisse Heraldos, sub excessu Henrici 3. &c. in classes jam tum distinctos, ut apparet è quadam Apocha, Anno 4. Edouardi 1. (vel circiter) confecta. Universis Christi Fidelibus ad quos, &c. Petrus Rex Hiraudorum citra aquam de Trent ex parte Boreali salutem in Domino sempiternam. Noverit Universitas vestra me recepisse de Domino Johanne, Filio Dom. Radulfi de Horbira 20 Marcas Argenti, &c. Et dictum Dom. Johannem ab origine mundi usq; in diem Mercurij proxime post Festum S. Gregorij Papæ Anno Regni Regis Edouardi quarto, plenarie &c. expresse quietum clamasse. In cujus &c. intelligendum est conditam hanc Apocham in tractu Angliæ Boreali; nam licet seipsum appellet Regem Hiraudorum citra aquam de Trent, subjungit tamen, ex parte Boreali; Quibus etiam innuit, fuisse &c. Regem alium ex parte Australi (nam correlativa mutuo se ponunt) &c. perinde utrumq; suos habuisse Heraldum subditos, seu inferiores, quorum se Regem nuncupat. His Fidem facit ejusdem Tempestatis aut finitime, statutum quod Armorum inscribitur, &c. que nul Roy de Haraz, ne Ministraux, &c. Ministraux expono Heraldos simplices, (non Reges) &c. Prosecutores quos vocant Pursuivandos; nam &c. hos fuisse Henrici 3. aeo, docent annales nostri, qui Anno ejusdem 50. i. e. Domini 1266, Pursuivando cuidam manum ab exhereditatis abscissam referunt. Sic habes sub aeo Henrici 3. integram Heraldorum Scholam, sc. Reges, Heraldos, &c. Pursuivandos, eosq; altioris fuisse Originis non dubitaveris.*

De numero non constat, nec de Titulis sub hoc aeo; Brevi autem reperiuntur multi Heraldī, multi Pursuivandī, quos in Triplicem classem distribuamus. Alios nempe
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animad.

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animadverto mere fuisse Ministros Regis, & ad Regiam Dignitatem (tanquam in Capite) pertinuisse. Alios ad Regiam sobolem, ejusdemq; Familias & Appennagia. Alios ad Familias Procerum & Regio Thoro non oriundas. Qui è primo genere sunt Heraldì, solummodo appellantur Reges Armorum seu Heraldorum; & habentes provincias Reges itemq; Provinciales. Hujusmodi duo tantum fuere totius Angliæ ex Antiquo designati; viz. Rex Partium australium, seu australis provincia, Hoc est, Cis-Trentanæ (qui subinde Clarencieux appellatur) & Rex Partium Boreali-um, seu Borealis Provincia, i. e. Ultra-Trentanæ, Norroy dictus vulgariter: Duo itemq; partibus Franciæ, quæ tunc Anglo parebant; scil. Guyon, ævo Edouardi 1. non obscurus; at sub Eduardo 3. eo clarior, quod Jo. Dux Lancastriæ (qui Rex Legionis & Castella saluatus est) Filiam Pagani Rovert equitis aurati hoc gerentis officium, in Matrimonium suscepit. Deinceps Agincourt ab Henrico 5, in memoriam (ut opinor) partæ illic victoriæ, institutus. Unus insuper Hiberniæ, nomen à loco Ireland ferens; quod Edouardus 6. in Ulster transmutavit: Hi (inquam) omnes immediate ad Regem pertinebant, & Reges dicti sunt; licet transmarini quidam contendant, principis Titulum (sive is Rex, sive Dux, sive Comes fuerit) uni tantummodo Heraldò communicandum.

Qui vero Regiæ soboli ejusdemq; ascripti sunt Appennagiis, non Reges Armorum, sed Heraldì simpliciter appellantur, uti & tertium Genus procerum Familiis inservientes.

Regis Primogenitus seu Princeps Walliæ (cui in Titulis etiam est Palatinatus Cestriæ) ex hoc Titulo Chester habuit (secundi Generis) Heraldum, & Falcon sub eodem Pursuivandum; minores utiq; Filij suos quiq; Heraldos ab Honoribus, & Appennagiis dictos Clarence, York, Lancaster, Richmond, Somerset, &c. Secundum genus (in Sacrum Patrimonium redeuntibus Appennagiis) ad Regem devolvitur, non extinguitur: De Garter, Clarencieux, & tertio Genere Heraldorum, mox infra. (Id. Ibid.)

(2) Henry the Fifth.] When King Henry the Fourth yielded up his Breath at Jerusalem, the Parliament was then sitting and witness'd his Death, as it did his Entrance upon the Throne, as if purpos'd to see the Course of the Crown,

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Crown, in the doubtful Current between the two House; of *Lancaster* and *York*, and to maintain their own Honour in directing the Sceptre according to their Warranty upon a late Intail by Act of Parliament. Yet did not all rest upon this; for the Heir of *H. 4.* was a Man every Inch of him, and meant not to moot upon the Point: His Father dyed a King, and he, his Heir, had the Crown, and was resolv'd to hold it; a rough young Man he had been formerly, and bold enough to outface small Doubts in Point of Succession; for he could (for a Need) outface common Civility itself: This might have lain in his Way, for he that cannot govern himself, can much less govern a Kingdom; yet a hidden Providence concluded quite contrary, and render'd him a clear Testimony of a strange Change by the Anointing Oil, like that of *Saul*, that forthwith had the Spirit of another Man: So, tho' not Hammer'd thereto by Affliction, as was *Ed. 1.* yet was he his Parallel in Government and Superior in Success. Being seated on the Throne, all Men thought it dangerous to abide the Adventure of the Turn of this King's Spirit. The Clergy had but yesterday try'd the Mastery with the Laity, and gain'd it but by one Vote: There was no dealing with the Clergy whilst Arch-bishop *Arundel* liv'd, nor with him whilst *H. 4.* liv'd, or his Merits were in Memory: But now they both are Dead, the Clergy and Laity are upon even Ground; this might make the Clergy now not over-confident. The Lords look'd on the King as a Man like enough to strike him that stands next: The wise Men saw he would be doing: All Men were tir'd with Intestine Quarrels, and jump'd in one Opinion, That he that would be in Action, should Act abroad, where he might get Renown, and a Purchase big enough for his Spirit. *Scotland* was a Kingdom yet incompetent to the King's Appetite: *France* was the fairer Mark, and a better Game; and tho' too big for the *English* Gripe, yet the Eagle stoop'd, and sped himself so well, as within six Years, he fastned upon the Sword and Sceptre, and a Daughter of *France*, and might have seiz'd the Crown; but chose to suffer a Blurr to lye upon his Title, deriv'd from *Ed. 3.* rather than to incur the Censure of Arrogancy over a stooping Enemy, or to pluck the Fruit from the Tree before it was fully ripe, which in Time would fall into his Lap, by a better Law

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than that of the Sword; otherwise he, that hath both Right and Power, and will not seize, disclaims. Besides the King was as well Inheritor to his Father's Fate, as Crown. Still he had Success, but the End was so far distant, that he died in the Way thereto. The brave *Dauphine* of *France* maintaining War (after his Father, the *French* King, had yielded up the Bucklers to *H. 5.*) till *H. 5.* died, and the *English* did forego, what they had formerly gotten in *France*, by the Sword of that great Commander. Nor did the *English* gain any Thing in the Conclusion of this War, but an Honourable windy Repute, of being one of the five chief Nations of Christendom, (if Honour it be to be reputed amongst these Nations) a Conqueror of *France*, the chief Leader unto the Dethroning of three Popes at once, the Election of Pope *Martin*, and of giving a Cure to that deadly Wound of the Popedom, which had spent the Blood of 200000 Mens Lives, lost in that Quarrel.

These Foreign Engagements made the King less solicitous of the Point of Prerogative at Home; and the rather because he knew the Way to conquer his private Enemies Arms, and his Subjects Heart, without loss of Honour in the one, or Reverence in the other: He lov'd Justice above the Rank of his Predecessors, and in some Respects above himself; for he advanc'd *Gascoine* for doing Justice, tho' to the King's own Shame. He lik'd not to intrude himself into Elections, and therefore, tho' requested by the Monks of *Canterbury*, he would not nominate a Successor to Arch-bishop *Arundel*, but left the whole Work to them. In the Authority of his Place he was Moderate; and where his Predecessors did Matters without the Lords Consent, when he made his Uncle, the Marquess of *Dorset*, Duke of *Exeter*, and had given him a Pension to maintain that Honour, he ask'd the Lords Consent thereto: To the Clergy he was more than just, if not Indulgent, led thereto by his Father's Example, as being wrapt up in the same Interest, as I conceive, rather, than out of any liking of their Ways, now growing more bold upon Usurpation, than in former Times: Or it may be, that having prevail'd in that Work in *France*, which to any rational Man must needs appear above the Power of the King, and all the Realm of *England*; he look'd upon it as more than
Human,

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Humane, and himself as an Instrument of Miracles; and was stirred up in his Zeal to God, according to his Understanding in those dark Times, to give the Clergy scope, and to pleasure them with their Liberty of the Canon-Law, that began now to Thunder with Fire and Terror in such a manner, that neither Greatness nor Multitude could withstand the Dint; as was evidenc'd in that Penance inflicted upon the Lord *Strange* and his Lady, in Case of Blood-shed in Holy Ground; and their hot Pursuit of the Lord *Cobham*, unto a Death of a new Nature, for somewhat done, which was sometimes call'd Treason, and sometimes Heresy. And thus became *H. 5.* baptiz'd in the Flames of the *Lollards*, as his Father had sadly rendered up his Spirit in the same: I say, in this, he is to be look'd upon as one misled for want of Light, rather than in Opposition against the Light: For in his Last Will, wherein Men are wont to be more Serious and Sincere, amongst his private Regards, he forgets not to reflect upon Religion to this Purpose:

' We further Bequeath (saith he) to the Redundant
' Mercy of the most excellent Saviour, the Faith,
' Hope, and Charity, the Vertue, Prosperity, and
' Peace of the Kings our Successors, and of our King-
' dom of *England*; that God for his Goodness sake,
' would protect, visit, and defend them from Divisi-
' ons, Dissentions, and from all manner of Deceit-
' fulness of Hereticks.

And thus the Piety, Justice, and Moderation of *H. 5.* adorn'd and crown'd the Honour of his Courage and Greatness with that Honourable Title of Prince of Priests; and had he been blessed with a clearer Light, he might as well, under God, have obtain'd the Title of Prince of Princes, wanting nothing, that might have render'd him a Precedent of Fame. (*Bacon's Hist. Discourse of the Uniformity of the Government of England. Part II.*)

(3) *Ireland.*] *Hibernia*, i. e. the utmost Habitation; it being the Westernmost Island in *Europe*: a Kingdom subjected to the Crown of *England* in the Reign of King *Henry* the 2d, who was stil'd Lord of *Ireland*; but the

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Pope gave King *Henry* the 8th the Title of King thereof.

(4) *Ulster*.] *Ultonia*. The most Northern of the four Provinces of the Kingdom of *Ireland*, call'd by the *Irish*, *Cui-Gulli* ; by the *English*, *Ulster* ; by the *Welch*, *Witw* ; bounded on the North by the Ocean, on the West by *Connaught* and the Ocean, on the South by *Leinster*, and on the East by the *Irish-Sea*. 'Tis in Length from N. to S. 100 Miles, and in Breadth from E. to W. 130, in Circumference, 420.

(1) *Richard*.

Richard the Third (1) was the first who form'd the Heralds into a College (2), and endow'd them with Privileges : And *Edward VI.* (3) declar'd them free from all Subsidy, Taxes, and other Offices. *Philip* and *Mary* (4) gave them greater Privileges, confirming the same by Letters Patents whereby the Titles and Order of the Heralds, are thus publish'd.

viz. { 1. *Gar*ter, Principal King at Arms.
2. *Clarencieux*, King at Arms by South *Trent*.
3. *Norroy*, King at Arms by North *Trent*.

1. *Gar*ter (5) was instituted by *Henry V.* whose Office principally respected the Ceremonies and Solemnities relating to the most Noble Order of the *Gar*ter, the Marshalling the Funerals

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nerals of the Knights of the Garter, and of the Greater Nobility ; as Princes, Dukes, Marquesses, Earls, Viscounts, and Barons. We read also in *Plowden's* (6) Reports (7), that *Edward IV.* granted the Office of King of Herald to one *Garter, cum Feudis & Proficiis ab antiquo, &c.*

2. *Clarencieux* (8) *Clarencius*, is next instituted by *Edward IV.* who attaining the Dukedom of *Clarence* by the Death of his Brother *George*, whom he Beheaded for Aspiring to the Crown, made the Herald, which properly belong'd to the Duke of *Clarence*, a King at Arms, and call'd him *Clarencius*. His Office is to regulate all such solemn Funerals of the Lesser Nobility, as happen on the South Side of *Trent*.

3. *Norroy* (9), or *North Roy*, is the third and last; whose Office is the same on the North Side of *Trent*, that *Clarencieux* hath on this Side; as may well appear by his Name, signifying the Northern King, or King of the North Parts. But his Original is uncertain. These two last are call'd Provincial Heralds, because they divide *England* into two Provinces,

Besides

(1) *Richard*

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(1) *Richard III.*] Reign'd in 1483. He having seiz'd *Ed 5.* the Son of his Brother *Ed. 4th*, of the Age of thirteen Years, as he was coming to *London* from *Ludlow* in *Wales* to be Crown'd, first got himself to be Protector, and under pretence of safe Custody, gets him and his Brother into the Tower of *London*, and then procur'd the Murther of them there: After which he prevail'd with some of the Nobility to be proclaim'd King. He endeavour'd to make a League with the *French* King, who deservedly rejected the Alliance of such a Monster. But in a short Time the D. of *Buckenham*, who had been the chief Instrument of his Elevation, projected his Ruin, but lost his Life in the Attempt. After this *Henry Tudor* Earl of *Richmond* lands at *Milford-haven* in *Wales*, it being projected by Bishop *Morton* and others, that he being Heir to the House of *Lancaster*, should marry the Princess *Elizabeth*, King *Edward* the IV's eldest Daughter, and Heiress of the House of *York*: That an End might be put to those bloody Contentions, between those Two Families, in which were fought here in *England* Ten set Battles: Five in King *Henry* the VIth's Days; as at *St. Albans*, *Blackheath*, *Northampton*, *Wakefield*, and *Towton*: and as many more by King *Edward* the IVth; at *Exham*, *Banbury*, the Battle of *Loose-Coats*, *Barnet*, and *Tewksbury*. Accordingly upon *Henry* of *Richmond*'s Landing, the *Welshmen* and others came in to him. *Richard* and he met in *Bosworth-Field*, where the Tyrant (for that is his just Character) after desperate Valour shewn, is slain by *Henry* his Corrivall. This Decisive Battle of *Bosworth-Field*, put a Period to the Reign of the *Plantagenets*, and begun that of the *Tudors*.

(2) College.] Rot. Pat. primo Regni sui. Heraldos nostros (ut *Numa Pompilius Feciales Romanos*) primus in Collegium scripsit *Ricardus 3.* Corporationisque privilegiis honestavit Anno Regni sui primo; immunes à Subsidiiis, Theloniis, & omnibus muneribus Reipub. Rex *Edouardus 6.* Anno Regni 3. declaravit, sed in novem tandem redactos Personas (viz. 3 Reges & 6 alios Heraldos, prater Pursuivandos) *Philipus & Maria Principes uberius adornantes*
novo

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novo fundaverunt Diplomate, in quo Tituli & ordo Heraldorum sic Eduntur.

Garter, *Rex Armorum Anglicorum indefinite.*
Clarenceux, *Rex Armorum partium Australium,*
Norroy, *Rex Armorum Borealium.*

Windfor, Chester, Richmond,
Somerfet, York, Lancaster.

Concefferunt infuper, ut nominati isti Heraldī Armorum (loquor è Diplomate) & omnes alij Heraldī, Proſecutores ſeu Purſuivandi Armorum, qui pro tempore fuerint, in perpetuum ſint unum Corpus Corporatum, in re, Facto, & Nomine, habeantq; ſucceſſionem perpetuam; nec non quoddam ſigillum commune, &c. Dat. 18 Julij. Anno Regnorum 2 & 3. (Spelm. Gloſs.)

(3) Edward the 6th.] *Anno tertio Regni ſui.*

(4) Philip and Mary.] *Newly Incorporated them by Letters, bearing Date the 18th July, An. 1555. 2 & 3 Regn. And their College is in the Pariſh of St. Bennet in Caſtle-Baynard Ward. (Co. Inſt. 4.)*

(5) Garter.] *Quem ego perifcelium appello, locum (ut vides) primum obtinet; nulla tamen donatus Provincia, at ceteris omnibus Heraldis (velut pater patratus Romanis Fecialibus) ſuperinductus. Hunc inſtituit Henricus 5. Anno Regni -- Ut Auguſtiſſimo equitum Garterij, ſeu perifcelidis, ordini, à Miniſterio eſſet & Solemnitatibus: Quod audito Nomine, vel tu ipſe Omineriſ. Curat præterea Majorum Nobilium exequias; & in muneris Ornamentum, ex recepta hucuſq; conſuetudine, militari cingulo decoratur.*

(6) Plowden], Edmund, Son of Humphrey by Elizabeth his Wife, Daughter to John Sturey of Roſs-hall in Shropſhire, was deſcended of an Ancient Family at Plowden in the County aforeſaid: He was firſt Educated in Cambridge, and then at Oxford, where in 1552, he had an Univerſity Licence to praſtiſe Surgery and Phyſick, being

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ing then 35 Years old : Afterwards he applied himself to the Study of the Common Law ; was Reader of the *Middle Temple*, and Serjeant ; and esteem'd one of the most Eminent in his Profession. (Tho' I have seen an Edition of *Plowden* printed in 1613, written in *French* and translated by E. M. These Words suppos'd to be the Author's own Writing, viz. ' At my first coming to the Study of ' the Law, which was in the Twentieth Year of mine ' Age, and in the Thirtieth Year of the Reign of the late ' King of Famous Memory *Henry the Eighth*). He died in 1584, and was buried in the *Temple Church*. He wrote in *Law-French*, with great Learning and Exactness, a Book entitled, *The Commentaries or Reports of diverse Cases, being Matters in Law, and of Arguments thereupon*, &c. very much valu'd by those of that Profession. There goes also another Tract under his Name, call'd, *Plowden's Queries, or a Moot-Book of choice Cases, useful for the young Students in the Common Law*.

(7) *Report*] *Reportus*, is a publick Relation of Cases judicially argued, debated, resolved, or adjudged in any of the King's Courts of Justice, with the Causes and Reasons of the same deliver'd by the Judges. *Co. on Lit. fo. 293*. Also when the Chancery, or other Court, refer the Stating of some Case, or comparing an Account, &c. to a Master of Chancery, or other Referree, his Certificate therein is call'd a Report.

(8) *Clarencieux*, sive *Clarencius* (si *Cowellum* sequar.) ascriptitius Heraldus fuit Ducatus *Clarentia* ab Edouardo 4. in Regem *Armorum* evectus, cum ipsemet Edouardus, sublato *Georgio*, fratre suo, in Ducatum *Clarentia* jure fisci successit. Certus autem hic Error : Nam *Rogerum Leigh* ab Henrico 6. & *Gulielmum Horseley* ab Henrico 5. Reges *Armorum* institutos reperi sub nomine *Clarencieux* : Eisdemq; Tempestatibus *Johannem Haswell* ab Henrico 5. *Thomam Collyer* & *Johannem Mallet* ab Henrico 6. Heraldos simplices è Ducatus nomine, *Clarence* (non *Clarencieux*) appellatos. Sed in unum videtur Edouardus 4. composuisse hæc duo Officia, vel alterum omnino sustulisse : Nam à primordio Regni ejus *Clarence* Hactenus non apparuit. Quo autem tempore, & qua occasione ortum sit nomen *Clare-*

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Clarencieux, non habeo compertum. Edouardo 3. haud antiquius existimo; tunc vero cognitum haud affirmavero. Munus procul dubio longa nititur antiquitate, incerto licet nomine. Forte qui hoc olim gessit australi datus Provincia, South-Roy nuncupatus est; ut is qui Boreali, North-Roy. Nihil statuo. At cum Galli suos habuerint Heraldos, nescio quot secula ante Edouardum 3. imo ante Henricum 3. Anglos, tanta semper conjunctos necessitudine, suis caruisse, non verisimile est.

Præst (ut dixi) Clarencieux partibus Anglia cis-trentanis, & toto hoc tractu, de Muneribus Minorum Nobilium scil. Baronetorum, Equitum, Armigerorum, &c. solus disponit. (Id. Ibid.)

(9) Norroy seu Norreius (cum primaria sit etiam Antiquitatis) Originem non prodit; sed eodem in Partibus Borealibus, & ultra-trentanis, gaudet munere, quo in Cis-trentanis Clarencieux. Tres isti Armorum Reges, bodie equites sunt Aurati (Spel. Gloss.) (1) Six

Besides these, there be also Six (1) others properly call'd Heralds, according to their Original; being created to attend Dukes, &c. in Martial Expeditions, and therefore formerly call'd Dukes at Arms, viz.

*York and Lancaster,
Windsor and Chester,
Somerset and Richmond,*

Lastly, There be four others (2) call'd Marshals or Pursuivants (3) at Arms, reckon'd after

ter

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ter a Sort amongst the Number of Heralds and do commonly succeed in the Place of the Heralds when they die, or be preferr'd, and are, *viz.*

1. Blue-Mantle.
 2. Rouge-Crofs.
 3. Rouge-Dragon.
 4. Port-Cullis.
- } Probably so call'd from
the Badges they wore
heretofore.

Besides the six Heralds and four Pursuivants already mention'd, there is one Herald extraordinary (4), and two Pursuivants extraordinary.

The

(1) Six others] *Inferiores sex Heraldī non ab Officiorum præstantia, sed è Creationis cujusq; Antiquitate, locos obtinent; nulla autem donantur provincia, seu Territorio; at sub Regibus Heraldorum alternis vicibus Ministrantes, partem accipiunt Præmiorum; Et è Fisco referunt Stipendia, quod Honores, ad quos ipsi spectabant, in manus Regias devenerunt.*

York and Lancaster ab Edouardi 3. Filiis nomen ducunt, ni Lancastrium Paulo altius, in Familia Henrici ducis Lancastrie (Johannis Gandavensis soceri) inchoaveris.

Windfor sub An. 1366. i. e. 38 Edouardi 3. institutus dicitur. Siquidem cum idem Rex Gallos, à Nostratibus ad castrum de Aulroy in Britannia Armoricana, victos esse intellexisset: Pursuivandum, rei nuncium, (ut Froissardus refert) in Heraldum erexit, nomenq; ei Windfor cooptavit: Forte ut Garterij Ordini (cujus Windforia Capitolium) inserviret: nam inchoatus est Ordo iste Anno superioris tertio decimo: Et Garterius Rex Armorum Annos ultra 50 postea non apparuit.

De

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De Chester jamdudum diximus. Ortum hunc perhibent sub Edouardo 3.

Somerfet ab Henrico 8. forte institutus est, cum Filium suum Naturalem Henricum Fitz Roy in Ducem creasset Somerseti.

Richmond, mihi primum obviam venit sub Edouardo 4. (Id. Ibid.)

(2) There be four Others] *Oportet ut Prosecutorum, seu Pursuivandorum adjungam nomina; sunt enim ex hoc Collegio, & Ministri quidem in Heraldica, classe licet inferiori.*

1 Rouge-Crofs.

Præ Aliis Antiquitate pollet. Dictus à Cruce rubra, qua S. Georgius (Divus Anglorum Tutelaris, ut Francorum Dionysius) insignitur.

2 Blue-Mantle.

A Ceruleo Paludamento Francie Majestatis, quam assumpsit Edouardus 3. nomen ut opinor referens.

3 Rouge-Dragon.

A Rubro Dracone regium Anglorum clypeum sustinente, ab Henrico 7. Institutus.

4 Portcullis.

A Cataracta, qua usus est in Symbolo idem Henricus 7. Hi quatuor solummodo videntur fuisse ex Antiquo, Ordinarij; soli autem duo Priores usq; ad Henricum 7. (Id. Ibid.)

(3) *Pursuivants*], or rather *Poursuivants*, from the French *Poursuivre*, i. e. *Persequi*, signifies the King's Messengers attending upon him in his Wars, or at the Council-Table, Exchequer, in his Court, or his Chamber, to be sent upon any Occasion or Message, as for the apprehending of a Person accus'd, or suspected of any Offence. Those that are us'd in Martial Causes are call'd Pursuivants at Arms, 24 H. 8. 13. whereof there be four of special Names: And Stow speaking of Richard the Third's Death, p. 784. hath these Words: 'His Body was naked
' to

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to the Shins, not so much as one Clout about him, and was truss'd behind a Pursuivant at Arms, like an Hog or a Calf, &c. the rest are us'd upon other Messages in Time of Peace, and especially in Matters touching Jurisdiction. (Cowel's Interp.)

(4) Extraordinary] *Totum Heraldorum Collegium jam absolvimus, nisi quod ob Indolem plusquam Ordinariam à Regia Majestate nuperrime additus sit in Extraordinarium, Moubrius Heraldus; titulo ab Henrici 6. aetate hucusq; obdormiente. Exoletos alios Heraldos omitto, ex quibus tanquam ex inferiori Classe, puta Extraordinariis seu militibus caligatis (qui huc etiam referuntur) perpetuo olim electi sunt quatuor illi superiores (quos diximus) Ordinarii Pursuivandi: Ex Pursuivandis siquidem Heraldus, &c. Caligati Milites, genus quoddam erant Nunciorum Militarium, è Caligis & Pixide insignes, ut Armillati Cursores ab Armillis.*

(1) The

The Offices of all which Herald (1) and Pursuivants, besides their assisting at great Solemnities with the Kings at Arms, are to proclaim War or Peace, carry Defiances, Summon Forts or Rebels, proclaim Traitors, and to serve the Nobility and Gentry in Point of Honour and Arms. They must be all Gentlemen born, and the six Heralds are at their Creation made Esquires by the King. In Scotland the chief Herald is, *Lyon King at Arms*, under whom are several other Heralds, Messengers, Pursuivants, &c. the *Feciales* amongst the Romans were Priests.

Nam

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Nam Numa Pompilius divini cultus Institutionem in octo partes divisit; & ita etiam Sacerdotum octo Ordines constituit, &c. Septimam partem sacræ constitutionis Collegio eorum adjecit, qui Feciales vocantur; erant autem ex Optimis domibus, viri electi, &c. quorum partes in eo versabantur, ut Fidei publicæ inter populos præessent, neque justum aliquod Bellum fore censebatur, nisi id per Feciales esset indictum. Kings at Arms are mention'd in Stat. 13 & 14 Car. 2. Cap. 33. (2) *Vid. Cowel.*

And these only are the King's Heralds with us so call'd, because they receive Wages (3) of the King, and with publick Service serve all the Nobility in the Kingdom.

However, Noblemen and Peers of this Land in ancient Time had their Heralds (4) peculiar to themselves. For *Chester* the Herald, and *Falco* the Pursuivant, liv'd at the Command of the Prince of *Wales*, and serv'd him. *Humphry* Duke of *Glocester* and Earl of *Pembroke*, had the Herald *Pembroke* his Household Servant. *Richard* also Duke of *Glocester*, having now obtain'd the Kingdom, would needs have his Herald *Gloucester* to be call'd King at Arms for all *Wales*. *Charles Brandon* Duke of *Suffolk*, retain'd *Suffolk* Herald, and *Marleon* the Pursui-

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vant, his Servants, &c. These I thought good out of many others to rehearse, who serv'd Noblemen in their peculiar and domestical Services. But as the Condition of the Servant is made better by the Dignity of his Lord and Master; so these forenam'd Heralds liv'd not with like Authority or Privileges with the Kings.

And

(1) The Offices of all which Heralds] *Domini Hi omnes, tam Reges, quam Heraldum ministerium navant in fastu regio adornando. In Coronationibus; Nuptiis; Baptismatibus; Exequiis; Principum Congressibus & Festis majoribus celebrandis. Pompas ducunt & Curant. Curant illustria spectacula, Hastiludia, Duella Curant, Nobilium insignia & Genealogias. Quicquid denique ad Nobilitatem spectat & rem honorariam, istorum Cura tanquam Sacris Custodibus, & Templi Honoris Auditibus, demandatur. Foris obeunt legationes. Belli pacis, Federisq; sunt Nuntii. (Id. Ibid.)*

(2) 13 & 14 Car. 2. Cap. 33. The Clause of this Statute (entitul'd an Act for preventing Abuses in Printing Seditious, Treasonable, and Unlicens'd Books and Pamphlets, and for Regulating of Printing and Printing Presses) which concerns us, is, (*viz. Sect. 3. Num. 6.*) And that all Books to be imprinted concerning Heraldry, Titles of Honour, and Arms, or otherwise, concerning the Office of Earl-Marshall, shall be Licens'd by the Earl-Marshall for the Time being, or by his Appointment; or in Case there shall not then be an Earl-Marshall, shall be Licens'd by the Three Kings of Arms, Garter, Clarencieux, and Norroy, or any Two of them, whereof Garter, Principal King of Arms to be one. (But this Statute is expir'd).

(3) Wages.]

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(3) *Wages.*] They have a Salary out of the King's Exchequer. But *Garter*, King at Arms, has a double Salary, Fees at the Installments of Knights, and yearly Wages given him by all the Knights of the Garter. He has also a Composition for the uppermost Garment of each Knight at his Installment.

(4) Had their Heralds] *E tertio genere Heraldorum; Proceribus proprium; satis multi, interdum ab ipsorum nominibus, sed frequentius a Dignitatibus nuncupati: Sic Moubranus, Dux Norfolciæ, Heraldum Moubray habuit: Humfredus Dux Glocestriæ, & Comes Pembrochiæ, Heraldum Pembroke. Carolus Erandon, Dux Suffolciæ, Heraldum Suffolk & Pursuivandum Marleon. Marchio Dorset, Heraldum Groby. Comes Northumberlandiæ, Northumberland, cum Pursuivando Esperance. Arthurus Plantagenet, Vicecomes Lisle, Pursuivandum Lisle. Et Hastings Baro, sui nominis Pursuivandum, &c. Exolevit autem omnino Tertium hoc Genus Heraldorum. (Spelman. Gloss.)*

(1) *More*

And thus I briefly touch all Things for the Beautifying and setting forth Political Nobility. Now after all (with the Heralds Leave) let me join hereto, and insert some few Things concerning Arms, whereby Noblemen are wont to be known from the vulgar Sort, and to be amongst themselves by Families divided; which formerly were more sparingly (1) bestow'd, than in this our Age, and only upon such as had by their good Services deserv'd them.

A a a 2

But

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But such kind of Arms seem not to have taken their Beginning but of such Military Rewards, as were usually given to well deserving Men, in the *Roman* Common-Wealth: For the *Romans* always strove chiefly to obtain Honour and Glory, for the nourishing and maintaining whereof, they with Ornaments and Rewards labour'd to excite Mens Minds to the Performance of noble Actions, both at Home and Abroad. In Wars flourish'd Military Gifts, Trophies, Triumphal Arches, Letters Laureat, &c. In Time of Peace at Home, were shew'd Honourable Titles, Images, Statues, and such like: Things indeed wisely at first devis'd, which afterwards, together with the Empire, so increas'd, that how many and what manner of Crowns, Bracelets, Chains, and Crests every Man had merited; what sort of Trappings, Spears, Darts, or Belts they had obtain'd; these they were wont in their Expeditions in the Wars to bear in their Targets, and Bucklers, or set upon their Helmets; and again returning home in Time of Peace, hung them up in their Houses; and those Ornaments they by the Name of Arms, by a long Order of Succession, deliver'd over to their Posterity. From whence
those

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those Arms of Families, here and there dispersedly us'd by the Nobility in divers Kingdoms, were of the *Germans* call'd *Weapen*; in our Language *Arms*; and in *Latin Arma*; because Enemies were with them repuls'd.

These Things the antient *Roman* Coins, and credible antient *Roman* Writers declare: The Use whereof so at length prevail'd in Kingdoms, that as Names distinguish'd Men from Men; even so Arms divided Nations from Nations, and Families from Families; first granted by Kings themselves, but afterwards by the Heralds (Kings at Arms) by a Royal transmissive Power, given to them, who every where serv'd the Political Nobility, to whom I willingly leave these Things. And therefore the Name and Office of the Heralds were every where notable, and well-becoming an honest Man; who antiently were call'd the Fosterers of Political Nobility, the Arbiters of Equity, the Protectors of Verity, the Embassadors of Princes, and the Writers of Mens noble Acts.

CHAP.

A a a 3

(1) *More*

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(1) *More sparingly bestow'd.*] To illustrate this, I have made choice of Sir *Thomas Smith's* Authority. As for Gentlemen (saith he) they be made good cheap in *England*; For whosoever Studieth in the Law of the Realm, who Studieth in the Universities, who professeth Liberal Sciences; and to be short, who can live idly, and without manual Labour, and will bear the Port, Charge, and Countenance of a Gentleman, He shall be call'd Master (for that is the Title, which Men give to Esquires, and other Gentlemen), and shall be taken for a Gentleman. For true it is with us; *Tanti eris aliis, quanti tibi fueris.* And (if need be) a King of Heralds shall also give him, for Money, Arms newly made and invented, the Title whereof shall pretend to have been found by the said Herald in perusing and viewing of old Registers, where his Ancestors in Times past had been Recorded to bear the same; or if he will do it more truly, and of better Faith, he will write, that for the Merits of that Man, and certain Qualities, which he doth see in him, and for sundry noble Acts which he hath perform'd; he by the Authority, which he hath, giveth to him and his Heirs, these and these Arms; which being done, I think he may be call'd a Squire: For he beareth ever after those Arms. Such then are sometimes call'd in a Scorn, *Gentlemen of the first Head.* (*Common-Wealth of England, &c. Eng. Edit. at London. Chap. 20. Pag. 55, & 56.*)



CHAP.

C H A P. VIII.

Of the Order of Precedence.

HAVING shewn the Orders and Degrees of both our Sorts of Nobility, nam'd and unam'd, I shall now present the Reader with a View of the Ranks they are amongst themselves divided into, and what Honour they owe one another, by a certain Right of Precedence (1) as will appear by the following Order extracted out of a curious MSS.

An Emperor.

The King.

The King's Son, stil'd Prince of *Wales*.

The King's Brother.

The King's Uncle.

The King's Nephew.

The King's Brother's Son.

The King's Sister's Son.

This is the Extent of the Blood Royal.

Archbishop of *Canterbury*.

Lord Chancellor.

Lord Keeper.

A a a 4

(Both

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[*Both these being but one Office, as it is declared by Stat. 5 Eliz. Cap. 18. and there being but one Great Seal at this Day, there cannot be both a Lord Chancellor and a Lord Keeper of the Great Seal at one time. Co. Inst. 4. Page. 88.*]

Archbishop of York.

Lord High Treasurer.

Lord President of the King's Council.

Lord Privy Seal.

Who take Place above all Dukes, except the Royal Family : Rot. Parl. 31 H. 8.

Dukes descended of the Royal Blood.

Dukes.

Dukes Eldest Sons of the Royal Blood.

Marquesses.

Dukes Eldest Sons.

Earls.

Marquesses Eldest Sons.

Dukes Younger Sons.

Earls Eldest Sons of the Royal Blood.

Viscounts.

Marquesses Younger Sons.

Bishop

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Bishop of *London*, as Bishop of the Capital City of *England*, and Provincial Dean of *Canterbury*;

Bishop of *Durham*, as Count Palatine, and Earl of *Sedberg*.

Bishop of *Winchester*, as formerly Earl of *Southampton*.

All other Bishops, according to the Priority of Consecration.

Earls Eldest Sons.

Barons.

Viscounts Eldest Sons.

Earls Younger Sons.

Barons Eldest Sons.

Knights of the Garter

Knights of the Privy Council.

} *Being no otherwise Dignify'd.*

Chancellor of the Garter. } *By an Order of King Charles.*

Master of the Court of Wards.

Chancellor of the Exchequer.

Chancellor of the Dutchy.

Chief Justice of the Common-Pleas.

Master of the Rolls.

Chief Justice of the King's-Bench.

Chief Baron of the Exchequer.

Judges of the Coife.

Viscounts

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Viscounts Younger Sons. } *By a Decree of King*
Barons Younger Sons. } *James.*

Bannerets } *Made by the King or Prince.*
Baronets.

Bannerets } *Made by the King's Lieutenant.*

Knights that have been Ambassadors, Presidents,
Deputy Vice-Admirals, &c.

Knights of the Bath.

Knights Batchelors.

Esquires of the Body.

Eldest Sons of Knights of the Garter.

Eldest Sons of Knights of the Privy Council.

Eldest Sons of } *Made by the King or Prince.*
Bannerets,

Eldest Sons of Baronets.

Eldest Sons of } *Made by the King's Lieute-*
Bannerets. } *nant.*

Eldest Sons of Knights Batchelors.

Esquires according to their several Degrees.

Gentlemen according to the Antiquity of their
Families, being no otherwise dignified.

*These, that follow, take Place above all
their own Degree, viz.*

Lord Great Chamberlain of *England.*

Lord High Constable of *England.*

Earls

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Earl Marshal of *England*.

Lord High Admiral of *England*.

Lord Steward of the King's House.

Lord Chamberlain of the }
King's House. } *Rot. Parl. 31 H.8.*

*These also were thus plac'd in Proceſſion to
Parliament in 1640, and are as fol-
lows, viz.*

Clerks of the Council.

Masters of the Chancery.

The King's Puisne Serjeant at Law.

The King's Attorney.

The King's Sollicitor.

The King's two antient Serjeants at Law.

Masters of the Requests.

Barons of the Exchequer.

Justices of the Common Pleas.

 *Princeps niger, Filius Edvardi Tertij,
Primus Dux Angliæ, creatus Dux de Cornwal.*

*Reges enim Normannici noluerunt tam cito
creare Duces, quoniam ipsi Duces tantum fuere.*

*Robertus Vere Primus Marchio Angliæ, creatus
Marchio de Dublin per Richardum Secundum (ut
supra dixi in Marchione.)*

Johannes

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*Johannes Beauchamp, Baro de Kedderminster,
ita creatus per Richardum Secundum, Primus
Baro per Pat.*

*As I have shewn the Order of Precedence of
the Male Nobility, now for that of
Great Ladies and others.*

An Empress.

A Queen.

A King's Mother.

A King's Daughter unmarried.

A King's Sister.

A King's Aunt.

A Dutches.

A Marchioness.

A Duke's Daughter unmarried, or marry'd un-
der the Degree of a Baron.

A Countess.

A Marquess's Eldest Son's Wife.

A Marquess's Daughter unmarried, or marry'd
under the Degree of a Baron.

Duke's younger Son's Wives.

Viscountesses.

Earl's Eldest Son's Wives.

Earl's Daughters unmarried, or marry'd un-
der the Degree of a Baron. Mar-

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Marqueffes Younger Sons Wives.

Baroneffes.

Viscounts Eldest Sons Wives.

Viscounts Daughters unmarry'd, or marry'd
under the Degree of a Baron.

Earls Younger Sons Wives.

Barons Eldest Sons Wives.

Barons Daughters unmarry'd, or marry'd under
the Degree of a Baron.

Knights of the Garter's Wives.

Knights of the Privy Council's Wives.

Viscounts Younger Sons Wives.

Barons Younger Sons Wives.

Bannerets Wives, their Husbands being made by
the King or Prince.

Baronets Wives.

Bannerets Wives, their Husbands being made
by the King's Lieutenant.

Knights of the *Bath*'s Wives.

A Queen's chief Gentlewoman.

Maids of Honour.

Esquires for the Body, their Wives.

Knights of the Garter's Eldest Sons Wives.

Knights of the Privy Council's Eldest Sons Wives.

Bannerets Eldest Sons Wives, the Fathers made
by the King or Prince.

Baronets Eldest Sons Wives.

Bannerets

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Bannerets Eldest Sons Wives, their Fathers
made by the King's Lieutenant.

Knights of the *Bath's* Eldest Sons Wives.

Knights Eldest Sons Wives.

Knight's Daughters unmarried; but if marry'd
under their Degree, then they are to take
Place according to the Degree of their Hus-
bands.

Esquires Wives according to their several De-
grees.

*At a Chapter holden by the Officers of
Arms at the Imbroiderers - Hall in
London, 4 Eliz. it was order'd, viz.*

That no Inheretrix, whether Maid or Wife,
should bear, or cause to be born, any Crest, or
Cognizance of her Ancestors, otherwise than
followeth.

If she be a Maid, then to bear in her Ring
the Crest, Cognizance, or first Coat of her An-
cestors in a Lozenge.

If a Widow to Impale the first Coat of her
Husband with the first Coat of her Ancestors
upon a Lozenge.

If

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If the marry one that is no Gentleman, then to be clearly exempt from the former Conclusions.

How to Place Strangers.

If any Foreign King or Prince send to our Sovereign any Messenger.

If he be a Knight, receive him as a Baron.

If he be an Esquire, receive him as a Knight.

If he be a Gentleman, receive him as an Esquire.

If he be a Groom, receive him as a Yeoman.

Officers appertaining to Noblemen, according to their several Degrees.

A DUKE hath

A Treasurer.

A Chamberlain.

Four Gentlemen Ushers.

A Steward.

A Comptroller.

A Master of his Horse.

An

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An EARL bath

A Secretary.
A Comptroller.
A Steward.
Two Gentlemen Ushers.
A Gentleman of the Horse.

A BARON bath

A Steward.
A Clerk of his Kitchen.
A Yeoman of his Horse.
A Gentleman Usher not uncover'd when he goes
abroad.
A Yeoman Usher.
A Groom of his Chamber.
A Yeoman Usher of his Hall, and his Groom,
and not Marshal.
A Sewer arm'd.
A Carver, but unarm'd.
A Footman.
His Cup cover'd, but not Assay taken.
His Foot Carpet fingle.

How

How the Sword shall be born before the King and several of the Nobility.

A King's Sword shall be born before him in the middle of the Breast, against the Sword-bearers Head.

A Duke's Sword shall be born against the right Shoulder, *i. e.* betwixt the Neck and the Shoulder-bone.

An Earl's Sword shall be born betwixt the Shoulder-bone, and the Elbow.

A Baron's Sword shall be born bowing of the Elbow against the Joint.

 A Bishop of *Rome* in his Solemnity.

An Emperor in his Majesty.

A King in his Royalty.

A Duke in his Estate.

A Duke's Eldest Son and Heir, descended of the Royal Blood, shall have Place before a Marquess; if not of the Royal Blood, then he shall have Place above and before an Earl.

An Earl's Eldest Son, descended of the Royal Blood, shall go before a Viscount; if not of the Royal Blood, shall then precede a Baron.

B b b

The

The Number of Mourners according to the Degree of the Defunct.

An Emperor	17
A King	15
A Queen or Prince	13
A Duke	13
A Marquefs	11
An Earl	9
A Baron	7
A Knight	5
An Efquire	3
A Gentleman	1

How many Chaplains the Nobility in their feveral Degrees may keep.

Every Archbishop and Duke	6
Every Marquefs and Earl	5
Every Vifcount and other Bifhop	4
The Chancellor of <i>England</i> , every Baron, and Knight of the Garter	} 3
Every Dutcheffs, Marchioneffs, Counteffs, and Baroneffs, being Widows	} 2

The

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The Treasurer and Comptroller of the King's House. The King's Secretary, and Dean of the Chappel. The King's Almoner, and Master of the Rolls.	2
The Chief Justice of the King's Bench	I
The Warden of the five Ports.	I

According to 21 *Henry VIII. Cap. 13.* But by *Sect. 24.* of the same Statute, it is provided, That Archbishops, because they must Occupy Eight Chaplains at Consecrations of Bishops; and Bishops, because they must Occupy Six Chaplains at giving of Orders, and Consecration of Churches, may every one of them have Two Chaplains over and above the Number above limited.

I must

(1) *Precedence*] The ancientest Cause of Precedence was, it seems, taken from the elder Age or Priority of Birth, among Men, that were otherwise of equal Dignity. Of that we see some Testimonies in the Old Testament. And the same Cause remains in our Age in some Places, where the ancient Simplicity in Things of this Nature continues, tho' they have other Managers, that are too Barbarous. And this Cause of Precedence was in Old *Sparta*, and especially in the College of *Augurs* of *Rome*, where *ut Quisq; aetate antecellebat* (as *Cirero, de Senectute* says) *ita Sententia principatum tenebant; neq; solum Honore antecedentibus, sed iis etiam, qui cum Imperio erant, Majores natu Augures anteponebantur.* Priority of Choice

B b b 2

or

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or Creation among Men of the same Dignity afterwards for the most part gave Precedence. (*Agell. Lib. 14. Cap. 7. &c.*) as the several Eminency or Honour of the Dignities did among Men of several Dignities. That Eminency of Honour in Secular Offices, was esteem'd by the Nature of the Emyloyment, by the long or short Robe, by the Usefulness of them to the State, by the Power join'd with them, and such more, according to the Judgment of them that determin'd it,

Of the Precedence of some Offices, Dignities, and other Qualities, in the old State of the Jews.

The ancientest express Distinction of Precedence that I have seen, (saith *Selden*) of Offices, Dignities, and other Qualities mix'd together, is that in the old State of the Jews, which occurs in their *Misnaioth*, viz. A Priest is before a Levite; a Levite before an Israelite; an Israelite before a Mamzer; (or Bastard gotten in Incest. *Deut. 23. 2.*) a Mamzer before a Nethin (one descended of the Gibeonites, *Josu. 9. 23.*) a Nethin before a Proselyte; a Proselyte before a Manumitted Bondman. But this is understood, so long as they be otherwise of equal Quality: For if a Mamzer be well studied in the Law, and the High-Priest a meer Ignorant; in such Case a Mamzer is prefer'd before the High-Priest; upon which Text of the *Misnaioth*, in the *Gemara* of Jerusalem (*Talmud. Hierosolym. Tit. Horaijoth. fo. 48. Col. 2. and Babylon ad eund. fo. 18.*) we have a Note of like Nature, that mentions other Offices and Dignities, viz. A Master of the Law is before the King; the King is before the High-Priest; the High-Priest before the (Priests) anointed for the War. (*Ex Lege Deut. 20. 2.*) The Anointed for the War before the Chief of any of the (Priests) Courses; such a Chief before the Head of a Family; the Head of a Family before a Commander (of the Revenue of the Temple); such a Commander before a Treasurer (of it); a Treasurer before an Ordinary Priest; an Ordinary Priest before a Levite; a Levite before an Israelite; an Israelite before a Mamzer; a Mamzer before a Nethin; a Nethin before

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before a *Profelyte*; and a *Profelyte* before a Manumitted *Bondman*. But this is understood, so long as they be all otherwise of equal Quality: For if a *Mamzer* be well studied and taught in the Law, and the High-Priest a meer Ignorant; such a *Mamzer* is before such an High-Priest. But this was, it seems, only for Places in the Schools, or at Publick Lectures of their Law. So that the great Place and Precedence here of a Master of Law, or a great Student, is to be interpreted no otherwise, than as that of *Accius* in the College of Poets, who knowing his own Worth in that Art, would not there rise to *Julius Caesar*, when he came in, *Non Majestatis ejus immemor* (as *Valerius*, *Lib. 3. Cap. 7.* says), *sed quod in Comparatione Communium Studiorum aliquanto superiorem se esse consideret; quapropter Insolentia Crimine caruit, quia ibi Voluminum, non Imaginum certamina exercebantur.*

Other Particulars there were for Place and Precedence at the Sacrifices, when Persons of different Quality brought them; and in the Courts of Justice. But after that meer Honorary Titles without Employment were usually given by the Emperors *Codicilli Honorarii*, very many Laws also concerning the Eminency and Honour of one kind of Dignity, Officer, or Honorary, or both, before another, with the Reasons for the most part that induced them, were publish'd in the Empire; out of these, and the like, many Customs variously grew in several States, whence also some Laws, severally proper to these States, have been made for the clearing of such Controversies, as might arise about Precedence; divers Charters also, and the like upon these Customs, Laws, and the rest, many Controversies, Decisions, Commentaries have succeeded. In order therefore to a summary Designation of these.

1st, Of the Laws and Degrees of the Old Empire (for out of them the Lawyers usually dispute Cases of this Nature especially) and of some other States, that concern Precedence of our subordinate Dignities.

The ancientest Laws in the *Roman Empire* (unless you will except those Customs, that are dispers'd in the elder Histories of that Empire, touching Prerogative of Place and Voice in the Senate and the like) appear in that of *Ulpian* in the *Pandects*. *Tit. de albo scribendo.* Neither

is

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is there (saith *Selden*) in the Pandects any other Law, that expressly concerns Precedences, altho' some Doctors take Occasion to speak of it upon some others. Afterward many other were made soon after *Constantine*, which altho' they were proper to the personal Dignities, with Officiary and Honorary, of those Ages, yet are frequently applicable in rational Disquisitions, touching the placing of such different Dignities, as have been bred in the latter Times. The best Collection of these Laws is in the Code of *Theodosius*, especially in his Sixth Book: the chief Part whereof consists of no other kind, but such as belong to Matter of Place and Dignity. And to these of the Sixth Book, add also some in *Lib. 8. Tit. 7. & Lib. 7. Tit. 3. &c.* divers of those Laws, with others of ancient Emperors, touching Precedence are in *Justinian's Code*, for the most Part in the Twelfth Book. But there are other also dispers'd, in some other Titles in that Code of *Justinian*, which belong hither; they are usually cited upon obvious Occasions by the Lawyers, that either writ Commentaries on the Twelfth Book, or Treatises or Decisions touching this Matter: But I note here also, such of them (saith *Selden*) as have occur'd to my Observation. *G. de Decurionibus. L. 9. in Albo* (whereto join *C. Theod. Lib. 12. Tit. 1. L. 54.*) *Tit. de Officio Prefat. &c.* Add to these *Novell 24. Cap. 24. Sect. Collocatus autem*, of the *Prator of Pisidia, Novell 25. Cap. 5. Sect. 2. Sed neque Comitibus, &c. & edict. Justiniani 4. C. 1.* In all, or most of which in the Novells, we have Laws for ranking some Provincial Magistrates, when they were made, as that they should be of the *Spectabiles*, or the like. Now it is true, that *Justinian* at the Review or *repetita Praelectio* of his last Code (which is now us'd by Lawyers, as the Code, which is only Authentical for the Imperial Constitutions of the elder Times) abrogated all other Constitutions that were of former Time; and not receiv'd into that Code. So that, where we consider the Laws of his Code meerly as Laws, and suppose them to have a binding Power, as Laws at this Day, there we have Recourse in vain to those many other, that, being in that of *Theodosius*, were excluded out of this of *Justinian*, which (according to the Sense of his Character of Confirmation upon his Review) stand wholly repeal'd. But the whole Body of the Old Imperial

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Imperial Law, is no where at all in Force. And besides the City of Rome (*Statut. Urbis Romæ, Lib. 1. Cap. 41.*) and some other Parts in Italy and Germany, and the Kingdom of Portugal (where in those Cases only, for which the Ordinances of the same Kingdom have not special Provision, these Imperial Laws, if the Case be such, as that it be not Spiritual, are by an Ordinance there made of Force) there is no State can be nam'd, wherein any Part of the Body of those Imperial Laws hath the just Force of a Law, otherwise than a Custom hath particularly induc'd it. And where no such settled Custom hath made it Law, there it hath Force only according to the Strength of Reason, and Circumstance join'd with it, or as it shews the Opinion and Judgment of them that made it, but not at all, as if it had any commanding Power of Obedience; That is, *Valeat pro Ratione, non pro inducto jure; & pro Ratione, quantum Reges, Dynasta & Respublica intra potestatis sue fines valere patiuntur.* But this more especially for France. And for Spain: *Hispani duplex habent jus solum, Canonicum scilicet & Regium; Civile enim,* (meaning the Imperial Laws) *non habet vim Legis, sed Rationis.* The same may be said of other Kingdoms and States, which being free from all Subjection to the Empire, have Laws of their own, that in many Volumes are publickly sold, and exclude all Imperial Power and Law, otherwise than as Custom hath variously made some Admission.

2. For the Laws of the present Empire. See the *Aurea Bulla* of Charles the 4th. *Tit.* third and fourth, touching the Places of the Electors, and other Princes there. And Charles the 5th his Constitutions of the Place and Precedence of the Princes of the Empire, and some others in 155, which are in *Goldastus's* Constitutions Imperial. *Tom. 3. Pag. 511, &c.*

3. For France, Spain, and other Foreign Countries; the Volumes of their Laws and Lawyers have obviously Particulars concerning Place and Precedence amongst them; as also of the like in England, wherein are to be observ'd those Decrees, one by Power of Parliament under *H. 8.* concerning the Ranks of Nobility, the greater Clergy, and some of the greater Officers of State, and two other concerning Baronets and some other Dignities made by King James. That Act of Parliament under *H. 8.* is not printed.

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ted. In the Roll of that Parliament (*Rot. Parl. 3 H. 8. N. 10.*) the Title of it is, *An Act concerning placing of the Lords in the Parliament-Chamber and other Assemblies and Conferences of Council.*

The first Decree concerning Baronets is, *Rot. Parl. 10. Jacobi Part. 10. Membr. 8.* Tho' it was printed heretofore also by the Command of King *James*. Some four Years after this, there pass'd under the Great Seal, the other Decree concerning this Dignity, which is a brief Recital of the first Erection of it, and that other concerning it, and a Declaration of the King's Purpose, that it should continue, and that the Privileges formerly granted to it, should always be held. With these, in the Disquisitions about the Laws of Precedence with us, are to be consider'd also the Royal Decrees or Declarations, touching it in divers Patents to singular Persons, as that to the first Viscount *Beaumont* in *Pat. 23 H. 6. Part. 2. Membr. 21.* That to *Henry Beuchamp*, Earl of *Warwick*, in *Pat. 22. H. 6. N. 35.* and to him being Duke. *Rot. Car. 23 H. 6. Memb. 26. N. 24. &c.*

4. For Ecclesiastical Dignities, see especially the first six Books of the excellent *Epitome Veteris Juris Pontificij*, of *Antoninus Augustinus*; where the many Canons that concern them are noted. Take also Pope *Eugenius* the 4th's Bull for the Precedence of the old Patriarchats in *Laertius Cherubinus* his *Bullarium*, *Tom. 1. Constit. 17. Pag. 285.* And for the Precedence of Bishops, and Prothonotaries, see *Constit. 4. of Pius* the 2d. in the same *Bullar. Tom. 1. Pag. 316, &c.*

5. The Lists that shew Practice and Custom in Matter of Precedence, are seen in the Publick Assemblies of the States and other Solemnities of Coronations, Funerals, and the like in several Kingdoms.

For the Empire, *Goldastus* hath some in the beginning of the first Tome of his *Constitutiones Imperiales*, *Modius* in his *Pandectæ Triumphales*: Others also that write *de Statibus*, or *de Jurisdictione Imperii*, usually.

In *England*, divers of Coronations and Funerals, especially, remain with the Heralds, and some are Published: Of the same Nature with Lists are the Namings of Dignities in Commissions, Acts of Parliament, Subscriptions, and the like. The Commentaries are either such as are
written

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written on the Text of the Imperial or other Laws, or several Treatises. Those upon the Text of the Imperial Laws, are almost as easily found as the Texts themselves. And altho' divers Passages concerning Precedence are in the Commentaries on Texts, both of the Imperial and other Laws, that of their own Nature have no Relation to Precedence, yet these also are so much us'd with the rest, by such as have in several Treatises disputed of Precedence, that there rests not much Difficulty of finding them.

The several Treatises useful here are very many; as those inscrib'd *de Nobilitate, de dignitatibus*, or with Titles of that Nature, as *Tiraquellus, Rebuffus, Bonus de Curtili, Josias Nolden, Cassianus's Catalogus Glorie Mundi*, Sir William Segar, Garter, his Honour Military and Civil, *Fernes's Glory of Generosity, Cambden's Ordines Anglia* in his *Britannia*, and the like. Every one of which dispute something of Precedence, &c.

6. The antientest Question that I remember (saith *Selden*) mention'd concerning Precedence, judicially rais'd between Temporal Dignities, since the Time of the *Roman* Empire (between Ecclesiastical, the Questions are as antient as the Differences between *Rome* and any other of the old Patriarchats; and the Decisions of them, according to the Perswasion of the Sides, that Dispute it, occur in Stories and other Writers of the Church, and divers more betwixt Ecclesiastical Persons have been Antienter than any, that I find, between Temporal) is that in a Parliament at *Nants*, held in 1087, under *Aland Fergent*, D. of *Bretagne*, where the Priority of Place was question'd between the *Seigneur d' Anceries* and the *Seigneur du Pont*. But because the Proofs were not clear enough on either Part, the Matter was Adjourn'd till another Time, with this Ordinance concerning it, That in that Parliament the *Seigneur du Pont* should have Precedence, and sit as the Ninth Baron, and before the *Seigneur d' Anceries*; and that in the next Parliament the *Seigneur d' Anceries* should have the like Priority before him; And that so they should have Priority by Turns, until the Question between them were fully clear'd. Somewhat like this, for the Alteration of Precedence, is that between the Dukes of *Warwick* and *Buckingham*, under *Henry* the 6th (*An. 23 Regni*

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ni sui) who were to have it of each other every other Year. See also that in a Provincial Synod held at *London* under *William* the first, (*Selden* calls him not the Conqueror) *Lanfranck* being then Archbishop of *Canterbury*, and President of it; touching the Place and Precedence of the Archbishops and Bishops of *England*, and in Truth, of the Decisions that Concern Precedence, the most are upon Questions that have risen between Ecclesiastical Persons. For the various Dignity of their several Churches, and of their many Functions, Rules and Orders in them, by reason of the frequency of their Synodal and Processional Meetings, have necessarily rais'd many Questions of Place among them: But there is scarce any of those Decisions, but gives good Light by way of Authority or Reason to some Questions that arise also between Temporal Dignities, especially to Cases, wherein some of our subordinate Temporal Titles, have part in the Controversy. The Canon Law is much us'd in the Disputation of such Questions, But rarely without intermixture of the Imperial Civil Laws: And in the Decisions, the Text and Authorities of both are commonly Noted, and divers Occurrences in them also expressly declare the Precedence of Secular Dignities. Therefore they are as useful in Disquisitions touching the Precedence, whereof we now chiefly speak, as any Thing else whatsoever. They are dispers'd in divers, that have collected Decisions.

But see especially *Aloysius Riccius* his *Collectanea Decisionum*, Decis. 147, 470, 674, 1069. 1446. where very many other are also cited. In *Thuanus* also, and the History of the Council of *Trent*, several Questions are about Precedence between Embassadors of some Dukes. And for the Precedence of Dignities both Temporal and Ecclesiastical in *France*. See the *Recueil de Reglements notables*, &c. donnees enter Ecclesiastiques, Juges, Magistrats, &c. by *Jean Chenu*. Printed in 4to, and 1630; and that *Tractatus de Autoritate & Præminentia Sacri Magni Concilij & Parliamentorum Regni Francia* by *Jo. Mountaigne*, with the Addition to it of *Nicholaus Boerius*, &c. (*Tit. Hon.*)

I shall conclude this Article with the Sentence out of *Theodosius's Code*, which *Coke* hath clos'd his fourth and last

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last Part of his Institutes of the Laws of England with
viz.

*Ut Dignitatum Ordo Servetur, Siquis indebitum sibi
locum Usurpaverit, nulla se Ignoracione defendat ;
sitq; plane Sacrilegii reus.*

I must now humbly beg the Reader's Pardon, for the Extravagant length I have run, beyond the Bounds of my Design, and his Expectation. I thought (indeed) to have clos'd this Discourse with the Order of Precedence of the Greater and Lesser Nobility ; but meeting with the other Particulars in a Manuscript (written *Temp. Car. 1.* and Sign'd *Ro Brown Blue Mantle*, one of the four Pursuivants at Arms) left me by my Ancestors, I thought good additionally to insert them, as being Pleasant and Agreeable to the Curious in this Sort of Study ; which is all the Apology I can make for my undesigned Prolixity.

FINIS.





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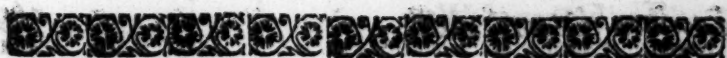
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